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THE ADMINISTRATION  
OF  
THOMAS JEFFERSON  
1801 — 1805





HISTORY OF THE UNITED STATES  
OF AMERICA DURING  
THE ADMINISTRATION OF  
THOMAS JEFFERSON

BY  
HENRY ADAMS

*Books I and II*

WITH INTRODUCTION BY  
HENRY STEELE COMMAGER

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## INTRODUCTION.

IT is now forty years since Henry Adams published, with no little trepidation, the first two volumes of his *HISTORY OF THE UNITED STATES DURING THE ADMINISTRATION OF THOMAS JEFFERSON AND JAMES MADISON*. Since that time economic interpretations have succeeded political and psychological interpretations have succeeded economic, the broad canvas has been replaced by the miniature, the full-length history by the monograph. Histories, biographies and special studies of the Jefferson and Madison administrations have poured from the presses in bewildering numbers and scores of devoted scholars, not unconscious of the generalization that each generation must rewrite past history, have labored industriously to reconstruct that epoch. Yet the HISTORY remains, not only a literary achievement of rare beauty, but an historical achievement of the first order. With the exception of Francis Parkman's *FRANCE AND ENGLAND IN NORTH AMERICA* it is the only major work yet produced by an American historian of which it can justly be said that age cannot wither it nor custom stale its infinite variety.

Adams himself, with that profound philosophical

humility which has puzzled so many commentators, did not think so highly of his *HISTORY*, and he does not omit to tell us that the majority of those friends who read the first volumes in manuscript, advised against publication. He describes it in his *EDUCATION*:

"Adams . . . had even published a dozen volumes of American history for no other purpose than to satisfy himself whether, by the severest process of stating, with the least possible comment, such facts as seemed sure, in such order as seemed rigorously consequent, he could fix for a familiar moment a necessary sequence of human movement. The result had satisfied him as little as at Harvard College. Where he saw sequence, other men saw something different, and no one saw the same unit of measure."

"To fix for a familiar moment a necessary sequence of human movement"—that is the criterion of every artist. The moment, though, is supremely important, especially to a philosophic historian seeking a "unit of measure." It was not a matter of chance that Adams chose to chronicle one of the most significant and critical moments of American history, the Jefferson and Madison administrations, and it behooves the critic to evaluate not only the beauty but the truth of his work of art. The period is from 1800 to 1817,—the high tide and the ebb of Jeffersonian democracy. It was a period that was ushered in with what its protagonist considered a bloodless revolution and that closed with the dull boom of cannon still reverberating



faintly in the distance, a period that opened on the hopeful, bouyant accents of Jefferson's first Inaugural address envisioning an agrarian democracy, and closed with the clamor of his followers setting up the defenses to a capitalist and industrial system. It was a period of consuming interest to an historian whose primary concern was to discover "the nature of a national character,"—one startlingly, significantly flanked by two Adamses; and was it modesty that determined Henry Adams to begin his history where his great-grandfather had ceased making it, and to close it before he should chronicle the profound tragedy of his grandfather's administration? Or was it a recognition that the democratic experiment, the moulding of national character, was to be made despite rather than through the presidencies of John and John Quincy Adams? If the history of America is fundamentally the history of the effort of a people to exploit unparalleled natural resources for democratic purposes, an experiment, that is, in a new political and social and economic order of things, then the Jeffersonian regime is the focal point of the story.

We may well ask, then, to what extent was Henry Adams able to understand, to describe and to interpret this critical period? Could an aristocratic New Englander—aristocratic despite his intellectual liberalism—could the great-grandson of John Adams, do justice to the Jeffersonian experiment? Let us phrase the question even more broadly, less personally. To

what extent could any mind moulded by and sensitive to the intellectual, the scientific, the economic, the psychological currents of the nineteenth century and exhibiting those characteristics of multiplicity that Adams himself delineated so persuasively in the *EDUCATION*,—to what extent could any such mind appreciate the relative unity and simplicity of Jeffersonian democracy? Had America changed so fundamentally in a hundred years that the finest intellectual product of the nineteenth century, Henry Adams, could not understand the finest intellectual product of the eighteenth—Thomas Jefferson? It is not too much to say that Henry Adams at Monticello is the most pregnant, the most profound problem in American history.

The superb quality and the wide range of Adams's early historical writing is a sufficient indication of his scholarly competence. As a very young man he had occupied some of those long hours that hung heavily upon the hands of a mere Secretary to the American Legation with historical and economic articles for learned English and American periodicals. An essay on "Captain John Smith" which appeared in the respectable *North American Review* in 1867 had finally demolished the Pocahontas myth and enrolled the budding diplomat in the ranks of the historical critics. Upon his return to the United States, President Eliot had invited him to the chair of medieval history at Harvard College, and there began then a connection fruitful for American scholarship and American his-

toriography. It was a new era in American historiography that Adams was called upon to inaugurate. The literary tradition was giving way to the scientific, the influence of the Gottingen school to the Berlin, the amateur to the professional, and Adams was one of the heralds of this new development, even though he himself was decidedly in the literary and the amateur tradition. In 1871-72 Adams held one of the first history seminars in America, and the first formal fruit of his teaching appeared in 1876 with the publication of a series of *ESSAYS IN ANGLO-SAXON LAW*. He signalized his retirement from Harvard the following year with the publication of a volume of *DOCUMENTS RELATING TO NEW ENGLAND FEDERALISM*, and, his interest and activity now definitely focussed upon American history, followed this with the *LIFE OF ALBERT GALLATIN*, *THE WRITINGS OF ALBERT GALLATIN*, and *JOHN RANDOLPH*, in rapid succession. The *HISTORY OF THE UNITED STATES*, then, represents the ripe maturity of Adams's scholarship, the climax of his historical labors.

But what of Adams's intellectual, his psychological fitness for the task of interpreting the Jeffersonian era. He himself reveals the travail of the labor. He was intellectually a Jeffersonian, an apostate from the established order of things even as his grandfather, John Quincy, had been, profoundly sympathetic with that eighteenth century America whose character he

delineates with such masterly strokes, with that vivacious Gallatin whom he so lovingly draws, with individualism and the unprivileged. Yet when he described and analyzed the Jeffersonian regime, there arose a curious conflict in his mind—a conflict between the Jefferson of his ideal and the Jefferson of his facts. “He utters repeatedly” remarked a contemporary reviewer of the *HISTORY*,—“he utters repeatedly the undeniable assertion that Jefferson was a great man, but he wholly fails to set forth how or wherein he was great.” We may put it on even broader grounds. Though Adams announced that the interest of America to the scientific historian is in the extent to which it revealed new social and economic and political processes, and that “should history ever become a true science it must establish its laws, not from the complicated story of European nationalities, but from the economical evolution of a great democracy”—yet the larger part of the nine volumes of his *HISTORY* is concerned with political, diplomatic, and military annals that are essentially Old World in character and that reveal very little of the “economical evolution of a great democracy.” It is not, then, that Adams fails to appreciate fully the depth and breadth of Jefferson’s genius, but that he attempts to interpret and to portray in terms of politics a democracy essentially social in character.

This is to say that while Adams’s approach is intellectual and cultural, and his point of view philo-

sophical and scientific, his *HISTORY* is distinctly of the old type—a political and diplomatic history. With all the appreciation of a McMaster, a Green, a Lamprecht, a Luchaire, for social and cultural and economic forces, he gives us largely political and military annals. The *HISTORY* is the apex of conventional historiography, the climax of nineteenth century historical writing in America, and it is with this superlatively fine work that the new schools of history must compete.

This conventionality is not a defect but a virtue, for within its scope the *HISTORY* is definitive. Built almost entirely on archive material, it is as much a source as a secondary work, and it meets the technical demands of the most exacting of historical critics. It is especially rich in its chronicle or diplomacy, and here Adams may be said to have exhausted the subject. The same may be said, with minor qualifications, of the treatment of the Louisiana Purchase, Burr's Conspiracy, the Embargo, the military and naval exploits of the War of 1812, the negotiation of the Treaty of Ghent, and important chapters of Napoleonic diplomacy.

It was just four years after the appearance of the first two volumes of the *HISTORY* that young Frederick Jackson Turner startled the historical profession with his Frontier interpretation of American history. Since that day a generation of ardent disciples has taught us to regard the processes of American history



from the perspective of the farthest west,—or perhaps, from a whole series of sectional perspectives, thus giving to the historical scene that complex and intricate character that is the delight of all professional diagnosticians. Indefatigable laborers in the fields of history have brought to light additional details on the economic background of Jeffersonian democracy, on the philosophy of the Embargo, on the economic and sectional causes of the War of 1812, on the Hartford Convention, and on not a few other subjects. Yet it is true that the grand outlines of the picture as painted by Adams's sure brush, remain unaltered. Some of the clear-cut lines have been blurred, the chiaroscuro softened; the planter, the farmer, the manufacturer, the banker, the laborer, the slave, even, have been brought into somewhat sharper relief, while the dust has been allowed to accumulate on the gaudier figures of the soldier and sailor, the politician and the diplomat. Yet within the limitations that Adams set for himself—"whether, by the severest process of stating, with the least possible comment, such facts as seemed reasonably sure, in such order as seemed rigorously consequent, he could fix for a familiar moment a necessary sequence of human movement"—within those limitations the *HISTORY* must be pronounced a work of art of the first order.

It is not, however, the achievement of definitiveness in certain chapters, or of relative completeness for a

period, of American history that insures immortality to Adams's many-volumed survey. It is rather the sum total of its characteristics: the limpid clarity and beauty, the classic restraint, the flashing brilliance of the prose; the lofty and tranquil impartiality, rigidly judicious without being abstract or impersonal; the serene philosophic approach which permeates the grave unhurried pages of the volumes; the fine sense of balance and form that distinguishes the work of art from the mere compilation of historical facts; the splendid devotion to, the rigorous regard for, truth as the ultimate end of history.

There is a significant, a fundamental difference between the *HISTORY OF THE UNITED STATES DURING THE ADMINISTRATIONS OF THOMAS JEFFERSON AND JAMES MADISON* and the later historical work of Adams's—the *MONT-SAINT-MICHEL AND CHARTRES* and *EDUCATION OF HENRY ADAMS* sequence,—a sequence which Adams himself regarded as one organic whole. The *HISTORY* was completed before Adams had formulated any philosophy of history; the *MONT-SAINT-MICHEL* and the *EDUCATION* were written after such a philosophy had crystallized in his mind, and were a contribution to and an illustration of it. Three years after Adams wrote the final chapter to the ninth volume of his *HISTORY* he set forth, in his Presidential Address to the American Historical Association, the problem of a science of history. After wait-

ing in vain for some bolder spirit to rush in where even an Adams hesitated to tread, he himself took up the challenge, and in his famous *LETTER TO AMERICAN TEACHERS* postulated a law of history based upon the second law of thermodynamics, that was eventually to crystallize into the "Dynamic Theory of History."

But the limpid pages of the *HISTORY* are troubled by few of these scientific eddies, these philosophic undertows. They neither point a moral nor adorn a tale. They illustrate no thesis, advertise no theory, develop no philosophy. They discover and approximate rather the Ranke ideal—to set forth "wie es eigentlich gewesen ist." Yet already here the grave lines of the closing chapters reveal something of that philosophic fever that was troubling Adams's soul. The interest was not primarily in the formulation of a philosophy of history, nor even in a rationale of American history, but rather in discovering, by a rigidly scientific analysis, what bearing the American experiment had on the problems of universal history.

"The scientific interest of American history" Adams wrote, "centered in national character, and in the workings of a society destined to become vast, in which individuals were important chiefly as types. Although this kind of interest was different from that of European history, it was at least as important to the world. Should history ever become a science it must expect to establish its laws, not from the complicated story of rival European nationalities, but from the economical evolution of a great de-

mocracy. North America was the most favorable field on the globe for the spread of a society so large, uniform and isolated as to answer the purposes of science. There a single homogeneous society could easily attain proportions of three or four hundred million persons, under conditions of undisturbed growth. . . . In American history the scientific interest was greater than the human. Elsewhere the student could study under better conditions the evolution of the individual, but nowhere could he study so well the evolution of a race. The interest of such a subject exceeded that of any other branch of science, for it brought mankind within sight of its own end."

Thus Adams sought to "fix a necessary sequence of human movement" in order to study the "evolution of a race." The *HISTORY* became more than a brilliantly phrased, consummately presented chronicle of a critical period of American democracy; it took on something of a philosophic, something of a universal character. It arrived at few conclusions, postulated fewer laws. The "moment" that it sought to capture and to describe with such scientific beauty, was a dynamic, not a static one. It was movement, flux, direction that arrested Adams' interest. The *HISTORY* was inspired by an evolutionary interpretation, and though "complexity precedes evolution" Adams was less interested in the former than in the latter. Complexity, indeed, may be dissolved to its component parts, but evolution cannot be reduced to any fixed mould. The true evolutionary historian may ask questions, but he seldom answers them, for any answer will be true only momentarily and rela-

tively. And so with that splendid consistency that permeates all of Adams's historical work, he closed his masterly account of the American scene, his searching investigation into American character, not with dogmatic conclusions, but with a series of questions.—Questions which may find their answers only when the American experiment is itself a thing of the past, when it has ceased to be an evolution and arrived at that melancholy state of degradation which Adams himself prophesied with such convincing logic.

“The traits of American character were fixed; the rate of physical and economical growth was established; and history, certain that at a given distance of time the Union would contain so many millions of people, with wealth valued at so many millions of dollars, became thence forward chiefly concerned to know what kind of people these millions were to be. They were intelligent, but what paths would their intelligence select? They were quick, but what solution of insoluble problems would quickness hurry? They were scientific, and what control would their science exercise over their destiny? They were mild, but what corruptions would their relaxations bring? They were peaceful, but by what machinery were their corruptions to be purged? What interests were to vivify a society so vast and uniform? What ideals were to ennoble it? What object, besides physical content, must a democratic continent aspire to attain? For the treatment of such questions, history required another century of experience.”

HENRY STEELE COMMAGER.

*December, 1929.*



## BOOK I



# HISTORY OF THE UNITED STATES.

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## CHAPTER I.

ACCORDING to the census of 1800, the United States of America contained 5,308,483 persons. In the same year the British Islands contained upwards of fifteen millions; the French Republic, more than twenty-seven millions. Nearly one fifth of the American people were negro slaves; the true political population consisted of four and a half million free whites, or less than one million able-bodied males, on whose shoulders fell the burden of a continent. Even after two centuries of struggle the land was still untamed; forest covered every portion, except here and there a strip of cultivated soil; the minerals lay undisturbed in their rocky beds, and more than two thirds of the people clung to the seaboard within fifty miles of tide-water, where alone the wants of civilized life could be supplied. The centre of population rested within eighteen miles of Baltimore, north and east of Washington. Except in political arrangement, the interior was little more civilized than in 1750,

and was not much easier to penetrate than when La Salle and Hennepin found their way to the Mississippi more than a century before.

A great exception broke this rule. Two wagon-roads crossed the Alleghany Mountains in Pennsylvania, — one leading from Philadelphia to Pittsburg; one from the Potomac to the Monongahela; while a third passed through Virginia southwestward to the Holston River and Knoxville in Tennessee, with a branch through the Cumberland Gap into Kentucky. By these roads and by trails less passable from North and South Carolina, or by water-ways from the lakes, between four and five hundred thousand persons had invaded the country beyond the Alleghanies. At Pittsburg and on the Monongahela existed a society, already old, numbering seventy or eighty thousand persons, while on the Ohio River the settlements had grown to an importance which threatened to force a difficult problem on the union of the older States. One hundred and eighty thousand whites, with forty thousand negro slaves, made Kentucky the largest community west of the mountains; and about ninety thousand whites and fourteen thousand slaves were scattered over Tennessee. In the territory north of the Ohio less progress had been made. A New England colony existed at Marietta; some fifteen thousand people were gathered at Cincinnati; half-way between the two, a small town had grown up at Chillicothe, and other villages or straggling cabins were to be found elsewhere; but

the whole Ohio territory contained only forty-five thousand inhabitants. The entire population, both free and slave, west of the mountains, reached not yet half a million; but already they were partly disposed to think themselves, and the old thirteen States were not altogether unwilling to consider them, the germ of an independent empire, which was to find its outlet, not through the Alleghanies to the seaboard, but by the Mississippi River to the Gulf.

Nowhere did eastern settlements touch the western. At least one hundred miles of mountainous country held the two regions everywhere apart. The shore of Lake Erie, where alone contact seemed easy, was still unsettled. The Indians had been pushed back to the Cuyahoga River, and a few cabins were built on the site of Cleveland; but in 1800, as in 1700, this intermediate region was only a portage where emigrants and merchandise were transferred from Lake Erie to the Muskingum and Ohio valleys. Even western New York remained a wilderness: Buffalo was not laid out; Indian titles were not extinguished; Rochester did not exist; and the county of Onondaga numbered a population of less than eight thousand. In 1799 Utica contained fifty houses, mostly small and temporary. Albany was still a Dutch city, with some five thousand inhabitants; and the tide of immigration flowed slowly through it into the valley of the Mohawk, while another stream from Pennsylvania, following the Susquehanna, spread toward the Genesee country.



The people of the old thirteen States, along the Atlantic seaboard, thus sent westward a wedge-shaped mass of nearly half a million persons, penetrating by the Tennessee, Cumberland, and Ohio rivers toward the western limit of the Union. The Indians offered sharp resistance to this invasion, exacting life for life, and yielding only as their warriors perished. By the close of the century the wedge of white settlements, with its apex at Nashville and its flanks covered by the Ohio and Tennessee rivers, nearly split the Indian country in halves. The northern half — consisting of the later States of Wisconsin, Michigan, Illinois, Indiana, and one third of Ohio — contained Wyandottes and Shawanese, Miamis, Kickapoos, and other tribes, able to send some five thousand warriors to hunt or fight. In the southern half, powerful confederacies of Creeks, Cherokees, Chickasaws, and Choctaws lived and hunted where the States of Mississippi, Alabama, and the western parts of Georgia, Tennessee, and Kentucky were to extend; and so weak was the State of Georgia, which claimed the southwestern territory for its own, that a well-concerted movement of Indians might without much difficulty have swept back its white population of one hundred thousand toward the ocean or across the Savannah River. The Indian power had been broken in halves, but each half was still terrible to the colonists on the edges of their vast domain, and was used as a political weapon by the Governments whose territory bounded the Union on the north and south.

The governors-general of Canada intrigued with the northwestern Indians, that they might hold in check any aggression from Washington; while the Spanish governors of West Florida and Louisiana maintained equally close relations with the Indian confederacies of the Georgia territory.

With the exception that half a million people had crossed the Alleghanies and were struggling with difficulties all their own, in an isolation like that of Jutes or Angles in the fifth century, America, so far as concerned physical problems, had changed little in fifty years. The old landmarks remained nearly where they stood before. The same bad roads and difficult rivers, connecting the same small towns, stretched into the same forests in 1800 as when the armies of Braddock and Amherst pierced the western and northern wilderness, except that these roads extended a few miles farther from the seacoast. Nature was rather man's master than his servant, and the five million Americans struggling with the untamed continent seemed hardly more competent to their task than the beavers and buffalo which had for countless generations made bridges and roads of their own.

Even by water, along the seaboard, communication was as slow and almost as irregular as in colonial times. The wars in Europe caused a sudden and great increase in American shipping employed in foreign commerce, without yet leading to general improvement in navigation. The ordinary sea-going

vessel carried a freight of about two hundred and fifty tons; the largest merchant ships hardly reached four hundred tons; the largest frigate in the United States navy, the "line-of-battle ship in disguise," had a capacity of fifteen hundred and seventy-six tons. Elaborately rigged as ships or brigs, the small merchant craft required large crews and were slow sailers; but the voyage to Europe was comparatively more comfortable and more regular than the voyage from New York to Albany, or through Long Island Sound to Providence. No regular packet plied between New York and Albany. Passengers waited till a sloop was advertised to sail; they provided their own bedding and supplies; and within the nineteenth century Captain Elias Bunker won much fame by building the sloop "Experiment," of one hundred and ten tons, to start regularly on a fixed day for Albany, for the convenience of passengers only, supplying beds, wine, and provisions for the voyage of one hundred and fifty miles. A week on the North River or on the Sound was an experience not at all unknown to travellers.

While little improvement had been made in water-travel, every increase of distance added to the difficulties of the westward journey. The settler who after buying wagon and horses hauled his family and goods across the mountains, might buy or build a broad flat-bottomed ark, to float with him and his fortunes down the Ohio, in constant peril of upsetting or of being sunk; but only light boats with strong

oars could mount the stream, or boats forced against the current by laboriously poling in shallow water. If he carried his tobacco and wheat down the Mississippi to the Spanish port of New Orleans, and sold it, he might return to his home in Kentucky or Ohio by a long and dangerous journey on horseback through the Indian country from Natchez to Nashville, or he might take ship to Philadelphia, if a ship were about to sail, and again cross the Alleghanies. Compared with river travel, the sea was commonly an easy and safe highway. Nearly all the rivers which penetrated the interior were unsure, liable to be made dangerous by freshets, and both dangerous and impassable by drought; yet such as they were, these streams made the main paths of traffic. Through the mountainous gorges of the Susquehanna the produce of western New York first found an outlet; the Cuyahoga and Muskingum were the first highway from the Lakes to the Ohio; the Ohio itself, with its great tributaries the Cumberland and the Tennessee, marked the lines of western migration; and every stream which could at high water float a boat was thought likely to become a path for commerce. As General Washington, not twenty years earlier, hoped that the brawling waters of the Cheat and Youghiogheny might become the channel of trade between Chesapeake Bay and Pittsburg, so the Americans of 1800 were prepared to risk life and property on any streamlet that fell foaming down either flank of the Alleghanies. The experience of mankind proved trade to be dependent

on water communications, and as yet Americans did not dream that the experience of mankind was useless to them.

If America was to be developed along the lines of water communication alone, by such means as were known to Europe, Nature had decided that the experiment of a single republican government must meet extreme difficulties. The valley of the Ohio had no more to do with that of the Hudson, the Susquehanna, the Potomac, the Roanoke, and the Santee, than the valley of the Danube with that of the Rhone, the Po, or the Elbe. Close communication by land could alone hold the great geographical divisions together either in interest or in fear. The union of New England with New York and Pennsylvania was not an easy task even as a problem of geography, and with an ocean highway; but the union of New England with the Carolinas, and of the sea-coast with the interior, promised to be a hopeless undertaking. Physical contact alone could make one country of these isolated empires, but to the patriotic American of 1800, struggling for the continued existence of an embryo nation, with machinery so inadequate, the idea of ever bringing the Mississippi River, either by land or water, into close contact with New England, must have seemed wild. By water, an Erie Canal was already foreseen; by land, centuries of labor could alone conquer those obstacles which Nature permitted to be overcome.

In the minds of practical men, the experience of



Europe left few doubts on this point. After two thousand years of public labor and private savings, even despotic monarchs, who employed the resources of their subjects as they pleased, could in 1800 pass from one part of their European dominions to another little more quickly than they might have done in the age of the Antonines. A few short canals had been made, a few bridges had been built, an excellent post-road extended from Madrid to St. Petersburg; but the heavy diligence that rumbled from Calais to Paris required three days for its journey of one hundred and fifty miles, and if travellers ventured on a trip to Marseilles they met with rough roads and hardships like those of the Middle Ages. Italy was in 1800 almost as remote from the north of Europe as when carriage-roads were first built. Neither in time nor in thought was Florence or Rome much nearer to London in Wordsworth's youth than in the youth of Milton or Gray. Indeed, such changes as had occurred were partly for the worse, owing to the violence of revolutionary wars during the last ten years of the eighteenth century. Horace Walpole at his life's close saw about him a world which in many respects was less civilized than when as a boy he made the grand tour of Europe.

While so little had been done on the great highways of European travel, these highways were themselves luxuries which furnished no sure measure of progress. The post-horses toiled as painfully as ever through the sand from Hamburg to Berlin, while the



coach between York and London rolled along an excellent road at the rate of ten miles an hour; yet neither in England nor on the Continent was the post-road a great channel of commerce. No matter how good the road, it could not compete with water, nor could heavy freights in great quantities be hauled long distances without extravagant cost. Water communication was as necessary for European commerce in 1800 as it had been for the Phœnicians and Egyptians; the Rhine, the Rhone, the Danube, the Elbe, were still the true commercial highways, and except for government post-roads, Europe was as dependent on these rivers in the eighteenth century as in the thirteenth. No certainty could be offered of more rapid progress in the coming century than in the past; the chief hope seemed to lie in the construction of canals.

While Europe had thus consumed centuries in improving paths of trade, until merchandise could be brought by canal a few score miles from the Rhone to the Loire and Seine, to the Garonne and the Rhine, and while all her wealth and energy had not yet united the Danube with other river systems, America was required to construct, without delay, at least three great roads and canals, each several hundred miles long, across mountain ranges, through a country not yet inhabited, to points where no great markets existed,—and this under constant peril of losing her political union, which could not even by such connections be with certainty secured. After

this should be accomplished, the Alleghanies must still remain between the eastern and western States, and at any known rate of travel Nashville could not be reached in less than a fortnight or three weeks from Philadelphia. Meanwhile the simpler problem of bringing New England nearer to Virginia and Georgia had not advanced even with the aid of a direct ocean highway. In becoming politically independent of England, the old thirteen provinces developed little more commercial intercourse with each other in proportion to their wealth and population than they had maintained in colonial days. The material ties that united them grew in strength no more rapidly than the ties which bound them to Europe. Each group of States lived a life apart.

Even the lightly equipped traveller found a short journey no slight effort. Between Boston and New York was a tolerable highway, along which, thrice a week, light stage-coaches carried passengers and the mail, in three days. From New York a stage-coach started every week-day for Philadelphia, consuming the greater part of two days in the journey; and the road between Paulus Hook, the modern Jersey City, and Hackensack, was declared by the newspapers in 1802 to be as bad as any other part of the route between Maine and Georgia. South of Philadelphia the road was tolerable as far as Baltimore, but between Baltimore and the new city of Washington it meandered through forests; the driver chose the track which seemed least dangerous, and rejoiced

if in wet seasons he reached Washington without miring or upsetting his wagon. In the Northern States, four miles an hour was the average speed for any coach between Bangor and Baltimore. Beyond the Potomac the roads became steadily worse, until south of Petersburg even the mails were carried on horseback. Except for a stage-coach which plied between Charleston and Savannah, no public conveyance of any kind was mentioned in the three southernmost States.

The stage-coach was itself a rude conveyance, of a kind still familiar to experienced travellers. Twelve persons, crowded into one wagon, were jolted over rough roads, their bags and parcels, thrust inside, cramping their legs, while they were protected from the heat and dust of mid-summer and the intense cold and driving snow of winter only by leather flaps buttoned to the roof and sides. In fine, dry weather this mode of travel was not unpleasant, when compared with the heavy vehicles of Europe and the hard English turnpikes; but when spring rains drew the frost from the ground the roads became nearly impassable, and in winter, when the rivers froze, a serious peril was added, for the Susquehanna or the North River at Paulus Hook must be crossed in an open boat,—an affair of hours at best, sometimes leading to fatal accidents. Smaller annoyances of many kinds were habitual. The public, as a rule, grumbled less than might have been expected, but occasionally newspapers contained bitter complaints. An angry

Philadelphian, probably a foreigner, wrote in 1796 that, "with a few exceptions, brutality, negligence, and filching are as naturally expected by people accustomed to travelling in America, as a mouth, a nose, and two eyes are looked for in a man's face." This sweeping charge, probably unjust, and certainly supported by little public evidence, was chiefly founded on the experience of an alleged journey from New York:—

"At Bordentown we went into a second boat where we met with very sorry accommodation. This was about four o'clock in the afternoon. We had about twenty miles down the Delaware to reach Philadelphia. The captain, who had a most provoking tongue, was a boy about eighteen years of age. He and a few companions despatched a dozen or eighteen bottles of porter. We ran three different times against other vessels that were coming up the stream. The women and children lay all night on the bare boards of the cabin floor. . . . We reached Arch Street wharf about eight o'clock on the Wednesday morning, having been about sixteen hours on a voyage of twenty miles."

In the Southern States the difficulties and perils of travel were so great as to form a barrier almost insuperable. Even Virginia was no exception to this rule. At each interval of a few miles the horseman found himself stopped by a river, liable to sudden freshets, and rarely bridged. Jefferson in his frequent journeys between Monticello and Washington was happy to reach the end of the hundred miles

without some vexatious delay. "Of eight rivers between here and Washington," he wrote to his Attorney-General in 1801, "five have neither bridges nor boats."

Expense caused an equally serious obstacle to travel. The usual charge in the Northern States was six cents a mile by stage. In the year 1796, according to Francis Baily, President of the Royal Astronomical Society, three or four stages ran daily from Baltimore to Philadelphia, the fare six dollars, with charges amounting to two dollars and a quarter a day at the inns on the road. Baily was three days in making the journey. From Philadelphia to New York he paid the same fare and charges, arriving in one day and a half. The entire journey of two hundred miles cost him twenty-one dollars. He remarked that travelling on the main lines of road in the settled country was about as expensive as in England, and when the roads were good, about as rapid. Congress allowed its members six dollars for every twenty miles travelled. The actual cost, including hotel expenses, could hardly have fallen below ten cents a mile.

Heavy traffic never used stage routes if it could find cheaper. Commerce between one State and another, or even between the seaboard and the interior of the same State, was scarcely possible on any large scale unless navigable water connected them. Except the great highway to Pittsburg, no road served as a channel of commerce between different regions of the

country. In this respect New England east of the Connecticut was as independent of New York as both were independent of Virginia, and as Virginia in her turn was independent of Georgia and South Carolina. The chief value of inter-State communication by land rested in the postal system; but the post furnished another illustration of the difficulties which barred progress. In the year 1800 one general mail-route extended from Portland in Maine to Louisville in Georgia, the time required for the trip being twenty days. Between Portsmouth in New Hampshire and Petersburg in Virginia the contracts required a daily service, except Sundays; between Petersburg and Augusta the mail was carried thrice a week. Branching from the main line at New York, a mail went to Canandaigua in ten days; from Philadelphia another branch line went to Lexington in sixteen days, to Nashville in twenty-two days. Thus more than twenty thousand miles of post-road, with nine hundred post-offices, proved the vastness of the country and the smallness of the result; for the gross receipts for postage in the year ending Oct. 1, 1801, were only \$320,000.

Throughout the land the eighteenth century ruled supreme. Only within a few years had the New Englander begun to abandon his struggle with a barren soil, among granite hills, to learn the comforts of easier existence in the valleys of the Mohawk and Ohio; yet the New England man was thought the shrewdest and most enterprising of Americans. If



the Puritans and the Dutch needed a century or more to reach the Mohawk, when would they reach the Mississippi? The distance from New York to the Mississippi was about one thousand miles; from Washington to the extreme southwestern military post, below Natchez, was about twelve hundred. Scarcely a portion of western Europe was three hundred miles distant from some sea, but a width of three hundred miles was hardly more than an outskirt of the United States. No civilized country had yet been required to deal with physical difficulties so serious, nor did experience warrant conviction that such difficulties could be overcome.

If the physical task which lay before the American people had advanced but a short way toward completion, little more change could be seen in the economical conditions of American life. The man who in the year 1800 ventured to hope for a new era in the coming century, could lay his hand on no statistics that silenced doubt. The machinery of production showed no radical difference from that familiar to ages long past. The Saxon farmer of the eighth century enjoyed most of the comforts known to Saxon farmers of the eighteenth. The eorls and ceorls of Offa and Ecgbert could not read or write, and did not receive a weekly newspaper with such information as newspapers in that age could supply; yet neither their houses, their clothing, their food and drink, their agricultural tools and methods, their stock, nor their

habits were so greatly altered or improved by time that they would have found much difficulty in accommodating their lives to that of their descendants in the eighteenth century. In this respect America was backward. Fifty or a hundred miles inland more than half the houses were log-cabins, which might or might not enjoy the luxury of a glass window. Throughout the South and West houses showed little attempt at luxury; but even in New England the ordinary farmhouse was hardly so well built, so spacious, or so warm as that of a well-to-do contemporary of Charlemagne. The cloth which the farmer's family wore was still homespun. The hats were manufactured by the village hatter; the clothes were cut and made at home; the shirts, socks, and nearly every other article of dress were also home-made. Hence came a marked air of rusticity which distinguished country from town,—awkward shapes of hat, coat, and trousers, which gave to the Yankee caricature those typical traits that soon disappeared almost as completely as coats of mail and steel head-pieces. The plough was rude and clumsy; the sickle as old as Tubal Cain, and even the cradle not in general use; the flail was unchanged since the Aryan exodus; in Virginia, grain was still commonly trodden out by horses. Enterprising gentlemen-farmers introduced threshing-machines and invented scientific ploughs; but these were novelties. Stock was as a rule not only unimproved, but ill cared for. The swine ran loose; the cattle were left to feed on what

pasture they could find, and even in New England were not housed until the severest frosts, on the excuse that exposure hardened them. Near half a century afterward a competent judge asserted that the general treatment of cows in New England was fair matter of presentment by a grand jury. Except among the best farmers, drainage, manures, and rotation of crops were uncommon. The ordinary cultivator planted his corn as his father had planted it, sowing as much rye to the acre, using the same number of oxen to plough, and getting in his crops on the same day. He was even known to remove his barn on account of the manure accumulated round it, although the New England soil was never so rich as to warrant neglect to enrich it. The money for which he sold his wheat and chickens was of the Old World; he reckoned in shillings or pistareens, and rarely handled an American coin more valuable than a large copper cent.

At a time when the wealth and science of London and Paris could not supply an article so necessary as a common sulphur-match, the backwardness of remote country districts could hardly be exaggerated. Yet remote districts were not the only sufferers. Of the whole United States New England claimed to be the most civilized province, yet New England was a region in which life had yet gained few charms of sense and few advantages over its rivals. Wilson, the ornithologist, a Pennsylvania Scotchman, a confirmed grumbler, but a shrewd judge,

and the most thorough of American travellers, said in 1808: "My journey through almost the whole of New England has rather lowered the Yankees in my esteem. Except a few neat academies, I found their schoolhouses equally ruinous and deserted with ours; fields covered with stones; stone fences; scrubby oaks and pine-trees; wretched orchards; scarcely one grain-field in twenty miles; the taverns along the road dirty, and filled with loungers brawling about lawsuits and politics; the people snappish and extortioners, lazy, and two hundred years behind the Pennsylvanians in agricultural improvements." The description was exaggerated, for Wilson forgot to speak of the districts where fields were not covered with stones, and where wheat could be grown to advantage. Twenty years earlier, Albert Gallatin, who knew Pennsylvania well, having reached Hartford on his way to Boston, wrote: "I have seen nothing in America equal to the establishments on the Connecticut River." Yet Wilson's account described the first general effect of districts in the New England States, where agriculture was backward and the country poor. The houses were thin wooden buildings, not well suited to the climate; the churches were unwarmed; the clothing was poor; sanitary laws were few, and a bathroom or a soil-pipe was unknown. Consumption, typhoid, scarlet fever, diphtheria, and rheumatic fevers were common; habits of drinking were still a scourge in every family, and dyspepsia destroyed more victims than were con-

sumed by drink. Population increased slowly, as though the conditions of life were more than usually hard. A century earlier, Massachusetts was supposed to contain sixty thousand inhabitants. Governor Hutchinson complained that while the other colonies quadrupled their numbers, Massachusetts failed to double its population in fifty years. In 1790 the State contained 378,000 people, not including the province of Maine; in 1800 the number rose to 423,000, which showed that a period of more rapid growth had begun, for the emigration into other States was also large.

A better measure of the difficulties with which New England struggled was given by the progress of Boston, which was supposed to have contained about eighteen thousand inhabitants as early as 1730, and twenty thousand in 1770. For several years after the Revolution it numbered less than twenty thousand, but in 1800 the census showed twenty-five thousand inhabitants. In appearance, Boston resembled an English market-town, of a kind even then old-fashioned. The footways or sidewalks were paved, like the crooked and narrow streets, with round cobblestones, and were divided from the carriage way only by posts and a gutter. The streets were almost unlighted at night, a few oil-lamps rendering the darkness more visible and the rough pavement rougher. Police hardly existed. The system of taxation was defective. The town was managed by selectmen, the elected instruments of town-meetings whose jealousy

of granting power was even greater than their objection to spending money, and whose hostility to city government was not to be overcome.

Although on all sides increase of ease and comfort was evident, and roads, canals, and new buildings, public and private, were already in course of construction on a scale before unknown, yet in spite of more than a century and a half of incessant industry, intelligent labor, and pinching economy Boston and New England were still poor. A few merchants enjoyed incomes derived from foreign trade, which allowed them to imitate in a quiet way the style of the English mercantile class; but the clergy and the lawyers, who stood at the head of society, lived with much economy. Many a country clergyman, eminent for piety and even for hospitality, brought up a family and laid aside some savings on a salary of five hundred dollars a year. President Dwight, who knew well the class to which he belonged, eulogizing the life of Abijah Weld, pastor of Attleborough, declared that on a salary of two hundred and twenty dollars a year Mr. Weld brought up eleven children, besides keeping a hospitable house and maintaining charity to the poor.

On the Exchange a few merchants had done most of the business of Boston since the peace of 1783, but six mail-coaches a week to New York, and occasional arrivals from Europe, or the departure of a ship to China, left ample leisure for correspondence and even for gossip. The habits of the commercial class



had not been greatly affected by recent prosperity. Within ten or fifteen years before 1800 three Banks had been created to supply the commercial needs of Boston. One of these was a branch Bank of the United States, which employed there whatever part of its capital it could profitably use; the two others were local Banks, with capital of \$1,600,000, toward which the State subscribed \$400,000. Altogether the banking capital of Boston might amount to two millions and a half. A number of small Banks, representing in all about two and a half millions more, were scattered through the smaller New England towns. The extraordinary prosperity caused by the French wars opened to Boston a new career. Wealth and population were doubling; the exports and imports of New England were surprisingly large, and the shipping was greater than that of New York and Pennsylvania combined; but Boston had already learned, and was to learn again, how fleeting were the riches that depended on foreign commerce, and conservative habits were not easily changed by a few years of accidental gain.

Of manufactures New England had many, but none on a large scale. The people could feed or clothe themselves only by household industry; their whale-oil, salt fish, lumber, and rum were mostly sent abroad; but they freighted coasters with turners' articles, home-made linens and cloths, cheese, butter, shoes, nails, and what were called Yankee Notions of all sorts, which were sent to Norfolk and the

Southern ports, and often peddled from the deck, as goods of every sort were peddled on the flat-boats of the Ohio. Two or three small mills spun cotton with doubtful success; but England supplied ordinary manufactures more cheaply and better than Massachusetts could hope to do. A tri-weekly mail and a few coasting sloops provided for the business of New England with domestic ports. One packet sloop plied regularly to New York.

The State of New York was little in advance of Massachusetts and Maine. In 1800 for the first time New York gained the lead in population by the difference between 589,000 and 573,000. The valuation of New York for the direct tax in 1799 was \$100,000,000; that of Massachusetts was \$84,000,000. New York was still a frontier State, and although the city was European in its age and habits, travellers needed to go few miles from the Hudson in order to find a wilderness like that of Ohio and Tennessee. In most material respects the State was behind New England; outside the city was to be seen less wealth and less appearance of comfort. The first impression commonly received of any new country was from its inns, and on the whole few better tests of material condition then existed. President Dwight, though maintaining that the best old-fashioned inns of New England were in their way perfect, being in fact excellent private houses, could not wholly approve what he called the modern inns, even in Connecticut; but when he passed into New

York he asserted that everything suffered an instant change for the worse. He explained that in Massachusetts the authorities were strict in refusing licenses to any but respectable and responsible persons, whereas in New York licenses were granted to any one who would pay for them,—which caused a multiplication of dram-shops, bad accommodations, and a gathering of loafers and tipplers about every tavern porch, whose rude appearance, clownish manners, drunkenness, swearing, and obscenity confirmed the chief of Federalist clergymen in his belief that democracy had an evil influence on morals.

Far more movement was to be seen, and accumulation was more rapid than in colonial days; but little had yet been done for improvement, either by Government or by individuals, beyond some provision for extending roads and clearing watercourses behind the advancing settlers. If Washington Irving was right, Rip Van Winkle, who woke from his long slumber about the year 1800, saw little that was new to him, except the head of President Washington where that of King George had once hung, and strange faces instead of familiar ones. Except in numbers, the city was relatively no farther advanced than the country. Between 1790 and 1800 its population rose from 33,000 to 60,000; and if Boston resembled an old-fashioned English market-town, New York was like a foreign seaport, badly paved, undrained, and as foul as a town surrounded by the tides could be. Although the Manhattan Company

was laying wooden pipes for a water supply, no sanitary regulations were enforced, and every few years — as in 1798 and 1803 — yellow fever swept away crowds of victims, and drove the rest of the population, panic stricken, into the highlands. No day-police existed; constables were still officers of the courts; the night-police consisted of two captains, two deputies, and seventy-two men. The estimate for the city's expenses in 1800 amounted to \$130,000. One marked advantage New York enjoyed over Boston, in the possession of a city government able to introduce reforms. Thus, although still mediæval in regard to drainage and cleanliness, the town had taken advantage of recurring fires to rebuild some of the streets with brick sidewalks and curbstones. Travellers dwelt much on this improvement, which only New York and Philadelphia had yet adopted, and Europeans agreed that both had the air of true cities: that while Boston was the Bristol of America, New York was the Liverpool, and Philadelphia the London.

In respect to trade and capital, New York possessed growing advantages, supplying half New Jersey and Connecticut, a part of Massachusetts, and all the rapidly increasing settlements on the branches of the Hudson; but no great amount of wealth, no considerable industry or new creation of power was yet to be seen. Two Banks, besides the branch Bank of the United States, supplied the business wants of the city, and employed about the same amount of

capital in loans and discounts as was required for Boston. Besides these city institutions but two other Banks existed in the State,—at Hudson and at Albany.

The proportion of capital in private hands seemed to be no larger. The value of exports from New York in 1800 was but \$14,000,000; the net revenue on imports for 1799 was \$2,373,000, against \$1,607,000 collected in Massachusetts. Such a foreign trade required little capital, yet these values represented a great proportion of all the exchanges. Domestic manufactures could not compete with foreign, and employed little bank credit. Speculation was slow, mostly confined to lands which required patience to exchange or sell. The most important undertakings were turnpikes, bridges such as Boston built across the Charles, or new blocks of houses; and a canal, such as Boston designed to the Merrimac, overstrained the resources of capital. The entire banking means of the United States in 1800 would not have answered the stock-jobbing purposes of one great operator of Wall Street in 1875. The nominal capital of all the Banks, including the Bank of the United States, fell short of \$29,000,000. The limit of credit was quickly reached, for only the richest could borrow more than fifteen or twenty thousand dollars at a time, and the United States Government itself was gravely embarrassed whenever obliged to raise money. In 1798 the Secretary of the Treasury could obtain five million dollars only by paying eight per

cent interest for a term of years; and in 1814 the Government was forced to stop payments for the want of twenty millions.

The precise value of American trade was uncertain, but in 1800 the gross exports and imports of the United States may have balanced at about seventy-five million dollars. The actual consumption of foreign merchandise amounted perhaps to the value of forty or fifty million dollars, paid in wheat, cotton, and other staples, and by the profits on the shipping employed in carrying West India produce to Europe. The amount of American capital involved in a trade of fifty millions, with credits of three, six, and nine months, must have been small, and the rates of profit large.

As a rule American capital was absorbed in shipping or agriculture, whence it could not be suddenly withdrawn. No stock-exchange existed, and no broker exclusively engaged in stock-jobbing, for there were few stocks. The national debt, of about eighty millions, was held abroad, or as a permanent investment at home. States and municipalities had not learned to borrow. Except for a few banks and insurance offices, turnpikes, bridges, canals, and land-companies, neither bonds nor stocks were known. The city of New York was so small as to make extravagance difficult; the Battery was a fashionable walk, Broadway a country drive, and Wall Street an uptown residence. Great accumulations of wealth had hardly begun. The Patroon was still the richest man in the



State. John Jacob Astor was a fur-merchant living where the Astor House afterward stood, and had not yet begun those purchases of real estate which secured his fortune. Cornelius Vanderbilt was a boy six years old, playing about his father's ferry-boat at Staten Island. New York city itself was what it had been for a hundred years past,—a local market.

As a national capital New York made no claim to consideration. If Bostonians for a moment forgot their town-meetings, or if Virginians overcame their dislike for cities and pavements, they visited and admired, not New York, but Philadelphia. "Philadelphia," wrote the Duc de Liancourt, "is not only the finest city in the United States, but may be deemed one of the most beautiful cities in the world." In truth, it surpassed any of its size on either side of the Atlantic for most of the comforts and some of the elegancies of life. While Boston contained twenty-five thousand inhabitants and New York sixty thousand, the census of 1800 showed that Philadelphia was about the size of Liverpool,—a city of seventy thousand people. The repeated ravages of yellow fever roused there a regard for sanitary precautions and cleanliness; the city, well paved and partly drained, was supplied with water in wooden pipes, and was the best-lighted town in America; its market was a model, and its jail was intended also for a model,—although the first experiment proved unsuccessful, because the prisoners went mad or idiotic in solitary

confinement. In and about the city flourished industries considerable for the time. The iron-works were already important; paper and gunpowder, pleasure carriages and many other manufactures, were produced on a larger scale than elsewhere in the Union. Philadelphia held the seat of government until July, 1800, and continued to hold the Bank of the United States, with its capital of ten millions, besides private banking capital to the amount of five millions more. Public spirit was more active in Pennsylvania than in New York. More roads and canals were building; a new turnpike ran from Philadelphia to Lancaster, and the great highway to Pittsburg was a more important artery of national life than was controlled by any other State. The exports of Pennsylvania amounted to \$12,000,000, and the custom-house produced \$1,350,000. The State contained six hundred thousand inhabitants, — a population somewhat larger than that of New York.

Of all parts of the Union, Pennsylvania seemed to have made most use of her national advantages; but her progress was not more rapid than the natural increase of population and wealth demanded, while to deal with the needs of America, man's resources and his power over Nature must be increased in a ratio far more rapid than that which governed his numbers. Nevertheless, Pennsylvania was the most encouraging spectacle in the field of vision. Baltimore, which had suddenly sprung to a population and

commerce greater than those of Boston, also offered strong hope of future improvement; but farther South the people showed fewer signs of change.

The city of Washington, rising in a solitude on the banks of the Potomac, was a symbol of American nationality in the Southern States. The contrast between the immensity of the task and the paucity of means seemed to challenge suspicion that the nation itself was a magnificent scheme like the federal city, which could show only a few log-cabins and negro quarters where the plan provided for the traffic of London and the elegance of Versailles. When in the summer of 1800 the government was transferred to what was regarded by most persons as a fever-stricken morass, the half-finished White House stood in a naked field overlooking the Potomac, with two awkward Department buildings near it, a single row of brick houses and a few isolated dwellings within sight, and nothing more; until across a swamp, a mile and a half away, the shapeless, unfinished Capitol was seen, two wings without a body, ambitious enough in design to make more grotesque the nature of its surroundings. The conception proved that the United States understood the vastness of their task, and were willing to stake something on their faith in it. Never did hermit or saint condemn himself to solitude more consciously than Congress and the Executive in removing the government from Philadelphia to Washington: the discontented men clustered together in eight or ten boarding-houses as

near as possible to the Capitol, and there lived, like a convent of monks, with no other amusement or occupation than that of going from their lodgings to the Chambers and back again. Even private wealth could do little to improve their situation, for there was nothing which wealth could buy; there were in Washington no shops or markets, skilled labor, commerce, or people. Public efforts and lavish use of public money could alone make the place tolerable; but Congress doled out funds for this national and personal object with so sparing a hand, that their Capitol threatened to crumble in pieces and crush Senate and House under the ruins, long before the building was complete.

A government capable of sketching a magnificent plan, and willing to give only a half-hearted pledge for its fulfilment; a people eager to advertise a vast undertaking beyond their present powers, which when completed would become an object of jealousy and fear,—this was the impression made upon the traveller who visited Washington in 1800, and mused among the unraised columns of the Capitol upon the destiny of the United States. As he travelled farther south his doubts were strengthened, for across the Potomac he could detect no sign of a new spirit. Manufactures had no existence. Alexandria owned a bank with half a million of capital, but no other was to be found between Washington and Charleston, except the branch Bank of the United States at Norfolk, nor any industry to which loans and discounts

could safely be made. Virginia, the most populous and powerful of all the States, had a white population of 514,000, nearly equal to that of Pennsylvania and New York, besides about 350,000 slaves. Her energies had pierced the mountains and settled the western territory before the slow-moving Northern people had torn themselves from the safer and more comfortable life by the seaboard ; but the Virginia ideal was patriarchal, and an American continent on the Virginia type might reproduce the virtues of Cato, and perhaps the eloquence of Cicero, but was little likely to produce anything more practical in the way of modern progress. The Shenandoah Valley rivalled Pennsylvania and Connecticut in richness and skill of husbandry ; but even agriculture, the favorite industry in Virginia, had suffered from the competition of Kentucky and Tennessee, and from the emigration which had drawn away fully one hundred thousand people. The land was no longer very productive. Even Jefferson, the most active-minded and sanguine of all Virginians, — the inventor of the first scientific plough, the importer of the first threshing-machine known in Virginia, the experimenter with a new drilling-machine, the owner of one hundred and fifty slaves and ten thousand acres of land, whose negroes were trained to carpentry, cabinet-making, house-building, weaving, tailoring, shoe-making, — claimed to get from his land no more than six or eight bushels of wheat to an acre, and had been forced to abandon the more profitable cultivation of tobacco.

Except in a few favored districts like the Shenandoah Valley, land in Virginia did not average eight bushels of wheat to an acre. The cultivation of tobacco had been almost the sole object of land-owners, and even where the lands were not exhausted, a bad system of agriculture and the force of habit prevented improvement.

The great planters lavished money in vain on experiments to improve their crops and their stock. They devoted themselves to the task with energy and knowledge; but they needed a diversity of interests and local markets, and except at Baltimore these were far from making their appearance. Neither the products, the markets, the relative amount of capital, nor the machinery of production had perceptibly changed. "The Virginians are not generally rich," said the Duc de Liancourt, "especially in net revenue. Thus one often finds a well-served table, covered with silver, in a room where for ten years half the window panes have been missing, and where they will be missed for ten years more. There are few houses in a passable state of repair, and of all parts of the establishment those best cared for are the stables." Wealth reckoned in slaves or land was plenty; but the best Virginians, from President Washington downward, were most outspoken in their warnings against the Virginia system both of slavery and agriculture.

The contrast between Virginia and Pennsylvania was the subject of incessant comment.



“In Pennsylvania,” said Robert Sutcliffe, an English Friend who published travels made in 1804–1806, “we meet great numbers of wagons drawn by four or more fine fat horses, the carriages firm and well made, and covered with stout good linen, bleached almost white; and it is not uncommon to see ten or fifteen together travelling cheerfully along the road, the driver riding on one of his horses. Many of these come more than three hundred miles to Philadelphia from the Ohio, Pittsburg, and other places, and I have been told by a respectable Friend, a native of Philadelphia, that more than one thousand covered carriages frequently come to Philadelphia market. . . . The appearance of things in the Slave States is quite the reverse of this. We sometimes meet a ragged black boy or girl driving a team consisting of a lean cow and a mule; sometimes a lean bull or an ox and a mule; and I have seen a mule, a bull, and a cow each miserable in its appearance, composing one team, with a half-naked black slave or two riding or driving as occasion suited. The carriage or wagon, if it may be called such, appeared in as wretched a condition as the team and its driver. Sometimes a couple of horses, mules, or cows would be dragging a hogshead of tobacco, with a pivot or axle driven into each end of the hogshead, and something like a shaft attached, by which it was drawn or rolled along the road. I have seen two oxen and two slaves pretty fully employed in getting along a single hogshead; and some of these come from a great distance inland.”

In the middle of these primitive sights, Sutcliffe was startled by a contrast such as Virginia could always show. Between Richmond and Fredericksburg, —

“ In the afternoon, as our road lay through the woods, I was surprised to meet a family party travelling along in as elegant a coach as is usually met with in the neighborhood of London, and attended by several gayly dressed footmen.”

The country south of Virginia seemed unpromising even to Virginians. In the year 1796 President Washington gave to Sir John Sinclair his opinion upon the relative value of American lands. He then thought the valley of Virginia the garden of America; but he would say nothing to induce others to settle in more southern regions.

“ The uplands of North and South Carolina and Georgia are not dissimilar in soil,” he wrote, “ but as they approach the lower latitudes are less congenial to wheat, and are supposed to be proportionably more unhealthy. Towards the seaboard of all the Southern States, and farther south more so, the lands are low, sandy, and unhealthy; for which reason I shall say little concerning them, for as I should not choose to be an inhabitant of them myself, I ought not to say anything that would induce others to be so. . . . I understand that from thirty to forty dollars per acre may be denominated the medium price in the vicinity of the Susquehanna in the State of Pennsylvania, from twenty to thirty on the Potomac in what is called the Valley, . . . and less, as I have noticed before, as you proceed southerly.”

Whatever was the cause, the State of North Carolina seemed to offer few temptations to immigrants or capital. Even in white population ranking fifth

among the sixteen States, her 478,000 inhabitants were unknown to the world. The beautiful upper country attracted travellers neither for pleasure nor for gain, while the country along the sea-coast was avoided except by hardy wanderers. The grumbling Wilson, who knew every nook and corner of the United States, and who found New England so dreary, painted this part of North Carolina in colors compared with which his sketch of New England was gay. "The taverns are the most desolate and beggarly imaginable; bare, bleak, and dirty walls, one or two old broken chairs and a bench form all the furniture. The white females seldom make their appearance. At supper you sit down to a meal the very sight of which is sufficient to deaden the most eager appetite, and you are surrounded by half-a-dozen dirty, half-naked blacks, male and female, whom any man of common scent might smell a quarter of a mile off. The house itself is raised upon props four or five feet, and the space below is left open for the hogs, with whose charming vocal performance the wearied traveller is serenaded the whole night long." The landscape pleased him no better,—"immense solitary pine savannahs through which the road winds among stagnant ponds; dark, sluggish creeks of the color of brandy, over which are thrown high wooden bridges without railings," crazy and rotten.

North Carolina was relatively among the poorest States. The exports and imports were of trifling value, less than one tenth of those returned for Mas-

sachusetts, which were more than twice as great as those of North Carolina and Virginia together. That under these conditions America should receive any strong impulse from such a quarter seemed unlikely; yet perhaps for the moment more was to be expected from the Carolinas than from Virginia. Backward as these States in some respects were, they possessed one new element of wealth which promised more for them than anything Virginia could hope. The steam-engines of Watt had been applied in England to spinning, weaving, and printing cotton; an immense demand had risen for that staple, and the cotton-gin had been simultaneously invented. A sudden impetus was given to industry; land which had been worthless and estates which had become bankrupt acquired new value, and in 1800 every planter was growing cotton, buying negroes, and breaking fresh soil. North Carolina felt the strong flood of prosperity, but South Carolina, and particularly the town of Charleston, had most to hope. The exports of South Carolina were nearly equal in value to those of Massachusetts or Pennsylvania; the imports were equally large. Charleston might reasonably expect to rival Boston, New York, Philadelphia, and Baltimore. In 1800 these cities still stood, as far as concerned their foreign trade, within some range of comparison; and between Boston, Baltimore, and Charleston, many plausible reasons could be given for thinking that the last might have the most brilliant future. The three towns stood abreast. If Charleston had but about

eighteen thousand inhabitants, this was the number reported by Boston only ten years before, and was five thousand more than Baltimore then boasted. Neither Boston nor Baltimore saw about them a vaster region to supply, or so profitable a staple to export. A cotton crop of two hundred thousand pounds sent abroad in 1791 grew to twenty millions in 1801, and was to double again by 1803. An export of fifty thousand bales was enormous, yet was only the beginning. What use might not Charleston, the only considerable town in the entire South, make of this golden flood?

The town promised hopefully to prove equal to its task. Nowhere in the Union was intelligence, wealth, and education greater in proportion to numbers than in the little society of cotton and rice planters who ruled South Carolina; and they were in 1800 not behind—they hoped soon to outstrip—their rivals. If Boston was building a canal to the Merrimac, and Philadelphia one along the Schuylkill to the Susquehanna, Charleston had nearly completed another which brought the Santee River to its harbor, and was planning a road to Tennessee which should draw the whole interior within reach. Nashville was nearer to Charleston than to any other seaport of the Union, and Charleston lay nearest to the rich trade of the West Indies. Not even New York seemed more clearly marked for prosperity than this solitary Southern city, which already possessed banking capital in abundance, intelligence, enterprise, the traditions of

high culture and aristocratic ambition, all supported by slave-labor, which could be indefinitely increased by the African slave-trade.

If any portion of the United States might hope for a sudden and magnificent bloom, South Carolina seemed entitled to expect it. Rarely had such a situation, combined with such resources, failed to produce some wonderful result. Yet as Washington warned Sinclair, these advantages were counterbalanced by serious evils. The climate in summer was too relaxing. The sun was too hot. The sea-coast was unhealthy, and at certain seasons even deadly to the whites. Finally, if history was a guide, no permanent success could be prophesied for a society like that of the low country in South Carolina, where some thirty thousand whites were surrounded by a dense mass of nearly one hundred thousand negro slaves. Even Georgia, then only partially settled, contained sixty thousand slaves and but one hundred thousand whites. The cotton States might still argue that if slavery, malaria, or summer heat barred civilization, all the civilization that was ever known must have been blighted in its infancy; but although the future of South Carolina might be brilliant, like that of other oligarchies in which only a few thousand free-men took part, such a development seemed to diverge far from the path likely to be followed by Northern society, and bade fair to increase and complicate the social and economical difficulties with which Americans had to deal.



A probable valuation of the whole United States in 1800 was eighteen hundred million dollars, equal to \$328 for each human being, including slaves ; or \$418 to each free white. This property was distributed with an approach to equality, except in a few of the Southern States. In New York and Philadelphia a private fortune of one hundred thousand dollars was considered handsome, and three hundred thousand was great wealth. Inequalities were frequent ; but they were chiefly those of a landed aristocracy. Equality was so far the rule that every white family of five persons might be supposed to own land, stock, or utensils, a house and furniture, worth about two thousand dollars ; and as the only considerable industry was agriculture, their scale of life was easy to calculate, — taxes amounting to little or nothing, and wages averaging about a dollar a day.

Not only were these slender resources, but they were also of a kind not easily converted to the ready uses required for rapid development. Among the numerous difficulties with which the Union was to struggle, and which were to form the interest of American history, the disproportion between the physical obstacles and the material means for overcoming them was one of the most striking.

## CHAPTER II.

THE growth of character, social and national, — the formation of men's minds, — more interesting than any territorial or industrial growth, defied the tests of censuses and surveys. No people could be expected, least of all when in infancy, to understand the intricacies of its own character, and rarely has a foreigner been gifted with insight to explain what natives did not comprehend. Only with diffidence could the best-informed Americans venture, in 1800, to generalize on the subject of their own national habits of life and thought. Of all American travelers President Dwight was the most experienced; yet his four volumes of travels were remarkable for no trait more uniform than their reticence in regard to the United States. Clear and emphatic wherever New England was in discussion, Dwight claimed no knowledge of other regions. Where so good a judge professed ignorance, other observers were likely to mislead; and Frenchmen like Liancourt, Englishmen like Weld, or Germans like Bülow, were almost equally worthless authorities on a subject which none understood. The newspapers of the time were little more trustworthy than the books of travel, and hardly so well written. The literature of a higher kind was

chiefly limited to New England, New York, and Pennsylvania. From materials so poor no precision of result could be expected. A few customs, more or less local; a few prejudices, more or less popular; a few traits of thought, suggesting habits of mind, — must form the entire material for a study more important than that of politics or economics.

The standard of comfort had much to do with the standard of character; and in the United States, except among the slaves, the laboring class enjoyed an ample supply of the necessities of life. In this respect, as in some others, they claimed superiority over the laboring class in Europe, and the claim would have been still stronger had they shown more skill in using the abundance that surrounded them. The Duc de Liancourt, among foreigners the best and kindest observer, made this remark on the mode of life he saw in Pennsylvania: —

“There is a contrast of cleanliness with its opposite which to a stranger is very remarkable. The people of the country are as astonished that one should object to sleeping two or three in the same bed and in dirty sheets, or to drink from the same dirty glass after half a score of others, as to see one neglect to wash one’s hands and face of a morning. Whiskey diluted with water is the ordinary country drink. There is no settler, however poor, whose family does not take coffee or chocolate for breakfast, and always a little salt meat; at dinner, salt meat, or salt fish, and eggs; at supper again salt meat and coffee. This is also the common regime of the taverns.”

An amusing, though quite untrustworthy Englishman named Ashe, who invented an American journey in 1806, described the fare of a Kentucky cabin : —

“ The dinner consisted of a large piece of salt bacon, a dish of hominy, and a tureen of squirrel broth. I dined entirely on the last dish, which I found incomparably good, and the meat equal to the most delicate chicken. The Kentuckian eat nothing but bacon, which indeed is the favorite diet of all the inhabitants of the State, and drank nothing but whiskey, which soon made him more than two-thirds drunk. In this last practice he is also supported by the public habit. In a country, then, where bacon and spirits form the favorite summer repast, it cannot be just to attribute entirely the causes of infirmity to the climate. No people on earth live with less regard to regimen. They eat salt meat three times a day, seldom or never have any vegetables, and drink ardent spirits from morning till night. They have not only an aversion to fresh meat, but a vulgar prejudice that it is unwholesome. The truth is, their stomachs are depraved by burning liquors, and they have no appetite for anything but what is high-flavored and strongly impregnated by salt.”

Salt pork three times a day was regarded as an essential part of American diet. In the “Chain-bearer,” Cooper described what he called American poverty as it existed in 1784. “As for bread,” said the mother, “I count that for nothing. We always have bread and potatoes enough ; but I hold a family to be in a desperate way when the mother can see the bottom of the pork-barrel. Give me the children

that's raised on good sound pork afore all the game in the country. Game's good as a relish, and so's bread; but pork is the staff of life. . . My children I calkerlate to bring up on pork."

Many years before the time to which Cooper referred, Poor Richard asked: "Maids of America, who gave you bad teeth?" and supplied the answer: "Hot soupings and frozen apples." Franklin's question and answer were repeated in a wider sense by many writers, but none was so emphatic as Volney:—

"I will venture to say," declared Volney, "that if a prize were proposed for the scheme of a regimen most calculated to injure the stomach, the teeth, and the health in general, no better could be invented than that of the Americans. In the morning at breakfast they deluge their stomach with a quart of hot water, impregnated with tea, or so slightly with coffee that it is mere colored water; and they swallow, almost without chewing, hot bread, half baked, toast soaked in butter, cheese of the fattest kind, slices of salt or hung beef, ham, etc., all which are nearly insoluble. At dinner they have boiled pastes under the name of puddings, and the fattest are esteemed the most delicious; all their sauces, even for roast beef, are melted butter; their turnips and potatoes swim in hog's lard, butter, or fat; under the name of pie or pumpkin, their pastry is nothing but a greasy paste, never sufficiently baked. To digest these viscous substances they take tea almost instantly after dinner, making it so strong that it is absolutely bitter to the taste, in which state it affects the nerves so powerfully that even the English find it brings on a more

obstinate restlessness than coffee. Supper again introduces salt meats or oysters. As Chastellux says, the whole day passes in heaping indigestions on one another; and to give tone to the poor, relaxed, and wearied stomach, they drink Madeira, rum, French brandy, gin, or malt spirits, which complete the ruin of the nervous system."

An American breakfast never failed to interest foreigners, on account of the variety and abundance of its dishes. On the main lines of travel, fresh meat and vegetables were invariably served at all meals; but Indian corn was the national crop, and Indian corn was eaten three times a day in another form as salt pork. The rich alone could afford fresh meat. Ice-chests were hardly known. In the country fresh meat could not regularly be got, except in the shape of poultry or game; but the hog cost nothing to keep, and very little to kill and preserve. Thus the ordinary rural American was brought up on salt pork and Indian corn, or rye; and the effect of this diet showed itself in dyspepsia.

One of the traits to which Liancourt alluded marked more distinctly the stage of social development. By day or by night, privacy was out of the question. Not only must all men travel in the same coach, dine at the same table, at the same time, on the same fare, but even their beds were in common, without distinction of persons. Innkeepers would not understand that a different arrangement was possible. When the English traveller Weld reached Elkton, on the main



road from Philadelphia to Baltimore, he asked the landlord what accommodation he had. "Don't trouble yourself about that," was the reply; "I have no less than eleven beds in one room alone." This primitive habit extended over the whole country from Massachusetts to Georgia, and no American seemed to revolt against the tyranny of innkeepers.

"At New York I was lodged with two others, in a back room on the ground floor," wrote, in 1796, the Philadelphian whose complaints have already been mentioned. "What can be the reason for that vulgar, hoggish custom, common in America, of squeezing three, six, or eight beds into one room?"

Nevertheless, the Americans were on the whole more neat than their critics allowed. "You have not seen the Americans," was Cobbett's reply, in 1819, to such charges; "you have not seen the nice, clean, neat houses of the farmers of Long Island, in New England, in the Quaker counties of Pennsylvania; you have seen nothing but the smoke-dried ultra-montanians." Yet Cobbett drew a sharp contrast between the laborer's neat cottage familiar to him in Surrey and Hampshire, and the "shell of boards" which the American occupied, "all around him as barren as a sea-beach." He added, too, that "the example of neatness was wanting;" no one taught it by showing its charm. Felix de Beaujour, otherwise not an enthusiastic American, paid a warm compliment to the country in this single respect,

although he seemed to have the cities chiefly in mind:—

“American neatness must possess some very attractive quality, since it seduces every traveller; and there is no one of them who, in returning to his own country, does not wish to meet again there that air of ease and neatness which rejoiced his sight during his stay in the United States.”

Almost every traveller discussed the question whether the Americans were a temperate people, or whether they drank more than the English. Temperate they certainly were not, when judged by a modern standard. Every one acknowledged that in the South and West drinking was occasionally excessive; but even in Pennsylvania and New England the universal taste for drams proved habits by no means strict. Every grown man took his noon toddy as a matter of course; and although few were seen publicly drunk, many were habitually affected by liquor. The earliest temperance movement, ten or twelve years later, was said to have had its source in the scandal caused by the occasional intoxication of ministers at their regular meetings. Cobbett thought drinking the national disease; at all hours of the day, he said, young men, “even little boys, at or under twelve years of age, go into stores and tip off their drams.” The mere comparison with England proved that the evil was great, for the English and Scotch were among the largest consumers of beer and alcohol on the globe.

In other respects besides sobriety American manners and morals were subjects of much dispute, and if judged by the diatribes of travellers like Thomas Moore and H. W. Bülow, were below the level of Europe. Of all classes of statistics, moral statistics were least apt to be preserved. Even in England, social vices could be gauged only by the records of criminal and divorce courts ; in America, police was wanting and a divorce suit almost, if not quite, unknown. Apart from some coarseness, society must have been pure ; and the coarseness was mostly an English inheritance. Among New Englanders, Chief-Justice Parsons was the model of judicial, social, and religious propriety ; yet Parsons, in 1808, presented to a lady a copy of "Tom Jones," with a letter calling attention to the adventures of Molly Seagrim and the usefulness of describing vice. Among the social sketches in the "Portfolio" were many allusions to the coarseness of Philadelphia society, and the manners common to tea-parties. "I heard from married ladies," said a writer in February, 1803, "whose station as mothers demanded from them a guarded conduct,—from young ladies, whose age forbids the audience of such conversation, and who using it modestly must disclaim,—indecent allusions, indelicate expressions, and even at times immoral innuendoes. A loud laugh or a coarse exclamation followed each of these, and the young ladies generally went through the form of raising their fans to their faces."

Yet public and private records might be searched

long, before they revealed evidence of misconduct such as filled the press and formed one of the commonest topics of conversation in the society of England and France. Almost every American family, however respectable, could show some victim to intemperance among its men, but few were mortified by a public scandal due to its women.

If the absence of positive evidence did not prove American society to be as pure as its simple and primitive condition implied, the same conclusion would be reached by observing the earnestness with which critics collected every charge that could be brought against it, and by noting the substance of the whole. Tried by this test, the society of 1800 was often coarse and sometimes brutal, but, except for intemperance, was moral. Indeed, its chief offence, in the eyes of Europeans, was dulness. The amusements of a people were commonly a fair sign of social development, and the Americans were only beginning to amuse themselves. The cities were small and few in number, and the diversions were such as cost little and required but elementary knowledge. In New England, although the theatre had gained a firm foothold in Boston, Puritan feelings still forbade the running of horses.

“The principal amusements of the inhabitants,” said Dwight, “are visiting, dancing, music, conversation, walking, riding, sailing, shooting at a mark, draughts, chess, and unhappily, in some of the larger towns, cards and dramatic exhibitions. A considerable amusement is

also furnished in many places by the examination and exhibitions of the superior schools ; and a more considerable one by the public exhibitions of colleges. Our countrymen also fish and hunt. Journeys taken for pleasure are very numerous, and are a very favorite object. Boys and young men play at foot-ball, cricket, quoits, and at many other sports of an athletic cast, and in the winter are peculiarly fond of skating. Riding in a sleigh, or sledge, is also a favorite diversion in New England."

President Dwight was sincere in his belief that college commencements and sleigh-riding satisfied the wants of his people ; he looked upon whist as an unhappy dissipation, and upon the theatre as immoral. He had no occasion to condemn horse-racing, for no race-course was to be found in New England. The horse and the dog existed only in varieties little suited for sport. In colonial days New England produced one breed of horses worth preserving and developing,—the Narragansett pacer ; but, to the regret even of the clergy, this animal almost disappeared, and in 1800 New England could show nothing to take its place. The germ of the trotter and the trotting-match, the first general popular amusement, could be seen in almost any country village, where the owners of horses were in the habit of trotting what were called scratch-races, for a quarter or half a mile from the door of the tavern, along the public road. Perhaps this amusement had already a right to be called a New-England habit, showing defined tastes ; but the force of the popular instinct was not

fully felt in Massachusetts, or even in New York, although there it was given full play. New York possessed a race-course, and made in 1792 a great stride toward popularity by importing the famous stallion "Messenger" to become the source of endless interest for future generations; but Virginia was the region where the American showed his true character as a lover of sport. Long before the Revolution the race-course was commonly established in Virginia and Maryland; English running-horses of pure blood — descendants of the Darley Arabian and the Godolphin Arabian — were imported, and racing became the chief popular entertainment. The long Revolutionary War, and the general ruin it caused, checked the habit and deteriorated the breed; but with returning prosperity Virginia showed that the instinct was stronger than ever. In 1798 "Diomed," famous as the sire of racers, was imported into the State, and future rivalry between Virginia and New York could be foreseen. In 1800 the Virginia race-course still remained at the head of American popular amusements.

In an age when the Prince of Wales and crowds of English gentlemen attended every prize-fight, and patronized Tom Crib, Dutch Sam, the Jew Mendoza, and the negro Molyneux, an Englishman could hardly have expected that a Virginia race-course should be free from vice; and perhaps travellers showed best the general morality of the people by their practice of dwelling on Virginia vices. They charged the



Virginians with fondness for horse-racing, cock-fighting, betting, and drinking; but the popular habit which most shocked them, and with which books of travel filled pages of description, was the so-called rough-and-tumble fight. The practice was not one on which authors seemed likely to dwell; yet foreigners like Weld, and Americans like Judge Longstreet in "Georgia Scenes," united to give it a sort of grotesque dignity like that of a bull-fight, and under their treatment it became interesting as a popular habit. The rough-and-tumble fight differed from the ordinary prize-fight, or boxing-match, by the absence of rules. Neither kicking, tearing, biting, nor gouging was forbidden by the law of the ring. Brutal as the practice was, it was neither new nor exclusively Virginian. The English travellers who described it as American barbarism, might have seen the same sight in Yorkshire at the same date. The rough-and-tumble fight was English in origin, and was brought to Virginia and the Carolinas in early days, whence it spread to the Ohio and Mississippi. The habit attracted general notice because of its brutality in a society that showed few brutal instincts. Friendly foreigners like Liancourt were honestly shocked by it; others showed somewhat too plainly their pleasure at finding a vicious habit which they could consider a natural product of democratic society. Perhaps the description written by Thomas Ashe showed best not only the ferocity of the fight but also the antipathies of the writer, for Ashe had something of the

artist in his touch, and he felt no love for Americans. The scene was at Wheeling. A Kentuckian and a Virginian were the combatants.

“Bulk and bone were in favor of the Kentuckian; science and craft in that of the Virginian. The former promised himself victory from his power; the latter from his science. Very few rounds had taken place or fatal blows given, before the Virginian contracted his whole form, drew up his arms to his face, with his hands nearly closed in a concave by the fingers being bent to the full extension of the flexors, and summoning up all his energy for one act of desperation, pitched himself into the bosom of his opponent. Before the effects of this could be ascertained, the sky was rent by the shouts of the multitude; and I could learn that the Virginian had expressed as much beauty and skill in his retraction and bound, as if he had been bred in a menagerie and practised action and attitude among panthers and wolves. The shock received by the Kentuckian, and the want of breath, brought him instantly to the ground. The Virginian never lost his hold. Like those bats of the South who never quit the subject on which they fasten till they taste blood, he kept his knees in his enemy’s body; fixing his claws in his hair and his thumbs on his eyes, gave them an instantaneous start from their sockets. The sufferer roared aloud, but uttered no complaint. The citizens again shouted with joy.”

Ashe asked his landlord whether this habit spread down the Ohio.

“I understood that it did, on the left-hand side, and that I would do well to land there as little as possible.

. . . I again demanded how a stranger was to distinguish a good from a vicious house of entertainment. ‘By previous inquiry, or, if that was impracticable, a tolerable judgment could be formed from observing in the landlord a possession or an absence of ears.’”

The temper of the writer was at least as remarkable in this description as the scene he pretended to describe, for Ashe’s Travels were believed to have been chiefly imaginary; but no one denied the roughness of the lower classes in the South and Southwest, nor was roughness wholly confined to them. No prominent man in Western society bore himself with more courtesy and dignity than Andrew Jackson of Tennessee, who in 1800 was candidate for the post of major-general of State militia, and had previously served as Judge on the Supreme Bench of his State; yet the fights in which he had been engaged exceeded belief.

Border society was not refined, but among its vices, as its virtues, few were permanent, and little idea could be drawn of the character that would at last emerge. The Mississippi boatman and the squatter on Indian lands were perhaps the most distinctly American type then existing, as far removed from the Old World as though Europe were a dream. Their language and imagination showed contact with Indians. A traveller on the levee at Natchez, in 1808, overheard a quarrel in a flatboat near by: —

“I am a man; I am a horse; I am a team,” cried one voice; “I can whip any man in all Kentucky, by

God!" "I am an alligator," cried the other; "half man, half horse; can whip any man on the Mississippi, by God!" "I am a man," shouted the first; "have the best horse, best dog, best gun, and handsomest wife in all Kentucky, by God!" "I am a Mississippi snapping-turtle," rejoined the second; "have bear's claws, alligator's teeth, and the devil's tail; can whip *any* man, by God!"

And on this usual formula of defiance the two fire-eaters began their fight, biting, gouging, and tearing. Foreigners were deeply impressed by barbarism such as this, and orderly emigrants from New England and Pennsylvania avoided contact with Southern drinkers and fighters; but even then they knew that with a new generation such traits must disappear, and that little could be judged of popular character from the habits of frontiersmen. Perhaps such vices deserved more attention when found in the older communities, but even there they were rather survivals of English low-life than products of a new soil, and they were given too much consequence in the tales of foreign travellers.

This was not the only instance where foreigners were struck by what they considered popular traits, which natives rarely noticed. Idle curiosity was commonly represented as universal, especially in the Southern settler who knew no other form of conversation:—

"Frequently have I been stopped by one of them," said Weld, "and without further preface asked where

I was from, if I was acquainted with any news, where bound to, and finally my name. ‘Stop, Mister! why, I guess now you be coming from the new State?’ ‘No, sir.’ ‘Why, then, I guess as how you be coming from Kentuck?’ ‘No, sir.’ ‘Oh, why, then, pray now where might you be coming from?’ ‘From the low country.’ ‘Why, you must have heard all the news, then; pray now, Mister, what might the price of bacon be in those parts?’ ‘Upon my word, my friend, I can’t inform you.’ ‘Ay, ay; I see, Mister, you be’ent one of us. Pray now, Mister, what might your name be?’”

Almost every writer spoke with annoyance of the inquisitorial habits of New England and the impertinence of American curiosity. Complaints so common could hardly have lacked foundation, yet the Americans as a people were never loquacious, but inclined to be somewhat reserved, and they could not recognize the accuracy of the description. President Dwight repeatedly expressed astonishment at the charge, and asserted that in his large experience it had no foundation. Forty years later, Charles Dickens found complaint with Americans for taciturnity. Equally strange to modern experience were the continual complaints in books of travel that loungers and loafers, idlers of every description, infested the taverns, and annoyed respectable travelers both native and foreign. Idling seemed to be considered a popular vice, and was commonly associated with tippling. So completely did the practice disappear in the course of another generation that it

could scarcely be recalled as offensive ; but in truth less work was done by the average man in 1800 than in aftertimes, for there was actually less work to do. " Good country this for lazy fellows," wrote Wilson from Kentucky ; " they plant corn, turn their pigs into the woods, and in the autumn feed upon corn and pork. They lounge about the rest of the year." The roar of the steam-engine had never been heard in the land, and the carrier's wagon was three weeks between Philadelphia and Pittsburg. What need for haste when days counted for so little ? Why not lounge about the tavern when life had no better amusement to offer ? Why mind one's own business when one's business would take care of itself ?

Yet however idle the American sometimes appeared, and however large the class of tavern loafers may have actually been, the true American was active and industrious. No immigrant came to America for ease or idleness. If an English farmer bought land near New York, Philadelphia, or Baltimore, and made the most of his small capital, he found that while he could earn more money than in Surrey or Devonshire, he worked harder and suffered greater discomforts. The climate was trying ; fever was common ; the crops ran new risks from strange insects, drought, and violent weather ; the weeds were annoying ; the flies and mosquitoes tormented him and his cattle ; laborers were scarce and indifferent ; the slow and magisterial ways of England, where everything was made easy, must be exchanged for



quick and energetic action; the farmer's own eye must see to every detail, his own hand must hold the plough and the scythe. Life was more exacting, and every such man in America was required to do, and actually did, the work of two such men in Europe. Few English farmers of the conventional class took kindly to American ways, or succeeded in adapting themselves to the changed conditions. Germans were more successful and became rich; but the poorer and more adventurous class, who had no capital, and cared nothing for the comforts of civilization, went West, to find a harder lot. When, after toiling for weeks, they reached the neighborhood of Genessee or the banks of some stream in southern Ohio or Indiana, they put up a rough cabin of logs with an earthen floor, cleared an acre or two of land, and planted Indian corn between the tree-stumps, — lucky if, like the Kentuckian, they had a pig to turn into the woods. Between April and October, Albert Gallatin used to say, Indian corn made the penniless immigrant a capitalist. New settlers suffered many of the ills that would have afflicted an army marching and fighting in a country of dense forest and swamp, with one sore misery besides, — that whatever trials the men endured, the burden bore most heavily upon the women and children. The chance of being shot or scalped by Indians was hardly worth considering when compared with the certainty of malarial fever, or the strange disease called milk-sickness, or the still more depressing home-sickness, or the misery of

nervous prostration, which wore out generation after generation of women and children on the frontiers, and left a tragedy in every log-cabin. Not for love of ease did men plunge into the wilderness. Few laborers of the Old World endured a harder lot, coarser fare, or anxieties and responsibilities greater than those of the Western emigrant. Not merely because he enjoyed the luxury of salt pork, whiskey, or even coffee three times a day did the American laborer claim superiority over the European.

A standard far higher than the average was common to the cities; but the city population was so small as to be trifling. Boston, New York, Philadelphia, and Baltimore together contained one hundred and eighty thousand inhabitants; and these were the only towns containing a white population of more than ten thousand persons. In a total population of more than five millions, this number of city people, as Jefferson and his friends rightly thought, was hardly American, for the true American was supposed to be essentially rural. Their comparative luxury was outweighed by the squalor of nine hundred thousand slaves alone.

From these slight notices of national habits no other safe inference could be drawn than that the people were still simple. The path their development might take was one of the many problems with which their future was perplexed. Such few habits as might prove to be fixed, offered little clew to the habits that might be adopted in the process of growth,

and speculation was useless where change alone could be considered certain.

If any prediction could be risked, an observer might have been warranted in suspecting that the popular character was likely to be conservative, for as yet this trait was most marked, at least in the older societies of New England, Pennsylvania, and Virginia. Great as were the material obstacles in the path of the United States, the greatest obstacle of all was in the human mind. Down to the close of the eighteenth century no change had occurred in the world which warranted practical men in assuming that great changes were to come. Afterward, as time passed, and as science developed man's capacity to control Nature's forces, old-fashioned conservatism vanished from society, reappearing occasionally, like the stripes on a mule, only to prove its former existence; but during the eighteenth century the progress of America, except in political paths, had been less rapid than ardent reformers wished, and the reaction which followed the French Revolution made it seem even slower than it was. In 1723 Benjamin Franklin landed at Philadelphia, and with his loaf of bread under his arm walked along Market Street toward an immortality such as no American had then conceived. He died in 1790, after witnessing great political revolutions; but the intellectual revolution was hardly as rapid as he must, in his youth, have hoped.

In 1732 Franklin induced some fifty persons to found

a subscription library, and his example and energy set a fashion which was generally followed. In 1800 the library he founded was still in existence; numerous small subscription libraries on the same model, containing fifty or a hundred volumes, were scattered in country towns; but all the public libraries in the United States — collegiate, scientific, or popular, endowed or unendowed — could hardly show fifty thousand volumes, including duplicates, fully one third being still theological.

Half a century had passed since Franklin's active mind drew the lightning from heaven, and decided the nature of electricity. No one in America had yet carried further his experiments in the field which he had made American. This inactivity was commonly explained as a result of the long Revolutionary War; yet the war had not prevented population and wealth from increasing, until Philadelphia in 1800 was far in advance of the Philadelphia which had seen Franklin's kite flying among the clouds.

In the year 1753 Franklin organized the postal system of the American colonies, making it self-supporting. No record was preserved of the number of letters then carried in proportion to the population, but in 1800 the gross receipts for postage were \$320,000, toward which Pennsylvania contributed most largely, — the sum of \$55,000. From letters the Government received in gross \$290,000. The lowest rate of letter-postage was then eight cents. The smallest charge for letters carried more than a

hundred miles was twelve and a half cents. If on an average ten letters were carried for a dollar, the whole number of letters was 2,900,000,—about one a year for every grown inhabitant.

Such a rate of progress could not be called rapid even by conservatives, and more than one stanch conservative thought it unreasonably slow. Even in New York, where foreign influence was active and the rewards of scientific skill were comparatively liberal, science hardly kept pace with wealth and population.

Noah Webster, who before beginning his famous dictionary edited the "New York Commercial Advertiser," and wrote on all subjects with characteristic confidence, complained of the ignorance of his countrymen. He claimed for the New Englanders an acquaintance with theology, law, politics, and light English literature; "but as to classical learning, history (civil and ecclesiastical), mathematics, astronomy, chemistry, botany, and natural history, excepting here and there a rare instance of a man who is eminent in some one of these branches, we may be said to have no learning at all, or a mere smattering." Although defending his countrymen from the criticisms of Dr. Priestley, he admitted that "our learning is superficial in a shameful degree, . . . our colleges are disgracefully destitute of books and philosophical apparatus, . . . and I am ashamed to own that scarcely a branch of science can be fully investigated in America for want of books, especially origi-

nal works. This defect of our libraries I have experienced myself in searching for materials for the History of Epidemic Diseases. . . . As to libraries, we have no such things. There are not more than three or four tolerable libraries in America, and these are extremely imperfect. Great numbers of the most valuable authors have not found their way across the Atlantic."

This complaint was made in the year 1800, and was the more significant because it showed that Webster, a man equally at home in Philadelphia, New York, and Boston, thought his country's deficiencies greater than could be excused or explained by its circumstances. George Ticknor felt at least equal difficulty in explaining the reason why, as late as 1814, even good schoolbooks were rare in Boston, and a copy of Euripides in the original could not be bought at any book-seller's shop in New England. For some reason, the American mind, except in politics, seemed to these students of literature in a condition of unnatural sluggishness; and such complaints were not confined to literature or science. If Americans agreed in any opinion, they were united in wishing for roads; but even on that point whole communities showed an indifference, or hostility, that annoyed their contemporaries. President Dwight was a somewhat extreme conservative in politics and religion, while the State of Rhode Island was radical in both respects; but Dwight complained with bitterness unusual in his mouth that Rhode Island showed no spirit of prog-



ress. The subject of his criticism was an unfinished turnpike-road across the State.

“The people of Providence expended upon this road, as we are informed, the whole sum permitted by the Legislature. This was sufficient to make only those parts which I have mentioned. The turnpike company then applied to the Legislature for leave to expend such an additional sum as would complete the work. The Legislature refused. The principal reason for the refusal, as alleged by one of the members, it is said, was the following: that turnpikes and the establishment of religious worship had their origin in Great Britain, the government of which was a monarchy and the inhabitants slaves; that the people of Massachusetts and Connecticut were obliged by law to support ministers and pay the fare of turnpikes, and were therefore slaves also; that if they chose to be slaves they undoubtedly had a right to their choice, but that free-born Rhode Islanders ought never to submit to be priest-ridden, nor to pay for the privilege of travelling on the highway. This demonstrative reasoning prevailed, and the road continued in the state which I have mentioned until the year 1805. It was then completed, and free-born Rhode Islanders bowed their necks to the slavery of travelling on a good road.”

President Dwight seldom indulged in sarcasm or exaggeration such as he showed in this instance; but he repeated only matters of notoriety in charging some of the most democratic communities with unwillingness to pay for good roads. If roads were to exist, they must be the result of public or private enterprise;

and if the public in certain States would neither construct roads nor permit corporations to construct them, the entire Union must suffer for want of communication. So strong was the popular prejudice against paying for the privilege of travelling on a highway that in certain States, like Rhode Island and Georgia, turnpikes were long unknown, while in Virginia and North Carolina the roads were little better than where the prejudice was universal.

In this instance the economy of a simple and somewhat rude society accounted in part for indifference; in other cases, popular prejudice took a form less easily understood. So general was the hostility to Banks as to offer a serious obstacle to enterprise. The popularity of President Washington and the usefulness of his administration were impaired by his support of a national bank and a funding system. Jefferson's hostility to all the machinery of capital was shared by a great majority of the Southern people and a large minority in the North. For seven years the New York legislature refused to charter the first banking company in the State; and when in 1791 the charter was obtained, and the Bank fell into Federalist hands, Aaron Burr succeeded in obtaining banking privileges for the Manhattan Company only by concealing them under the pretence of furnishing a supply of fresh water to the city of New York.

This conservative habit of mind was more harmful in America than in other communities, because Americans needed more than older societies the activity

which could alone partly compensate for the relative feebleness of their means compared with the magnitude of their task. Some instances of sluggishness, common to Europe and America, were hardly credible. For more than ten years in England the steam-engines of Watt had been working, in common and successful use, causing a revolution in industry that threatened to drain the world for England's advantage; yet Europe during a generation left England undisturbed to enjoy the monopoly of steam. France and Germany were England's rivals in commerce and manufactures, and required steam for self-defence; while the United States were commercial allies of England, and needed steam neither for mines nor manufactures, but their need was still extreme. Every American knew that if steam could be successfully applied to navigation, it must produce an immediate increase of wealth, besides an ultimate settlement of the most serious material and political difficulties of the Union. Had both the national and State Governments devoted millions of money to this object, and had the citizens wasted, if necessary, every dollar in their slowly filling pockets to attain it, they would have done no more than the occasion warranted, even had they failed; but failure was not to be feared, for they had with their own eyes seen the experiment tried, and they did not dispute its success. For America this question had been settled as early as 1789, when John Fitch — a mechanic, without education or wealth, but with the energy of genius — in-

vented engine and paddles of his own, with so much success that during a whole summer Philadelphians watched his ferry-boat plying daily against the river current. No one denied that his boat was rapidly, steadily, and regularly moved against wind and tide, with as much certainty and convenience as could be expected in a first experiment; yet Fitch's company failed. He could raise no more money; the public refused to use his boat or to help him build a better; they did not want it, would not believe in it, and broke his heart by their contempt. Fitch struggled against failure, and invented another boat moved by a screw. The Eastern public still proving indifferent, he wandered to Kentucky, to try his fortune on the Western waters. Disappointed there, as in Philadelphia and New York, he made a deliberate attempt to end his life by drink; but the process proving too slow, he saved twelve opium pills from the physician's prescription, and was found one morning dead.

Fitch's death took place in an obscure Kentucky inn, three years before Jefferson, the philosopher president, entered the White House. Had Fitch been the only inventor thus neglected, his peculiarities and the defects of his steamboat might account for his failure; but he did not stand alone. At the same moment Philadelphia contained another inventor, Oliver Evans, a man so ingenious as to be often called the American Watt. He, too, invented a locomotive steam-engine which he longed to bring into common use. The great services actually rendered by this extraor-

dinary man were not a tithe of those he would gladly have performed, had he found support and encouragement; but his success was not even so great as that of Fitch, and he stood aside while Livingston and Fulton, by their greater resources and influence, forced the steamboat on a sceptical public.

While the inventors were thus ready, and while State legislatures were offering mischievous monopolies for this invention, which required only some few thousand dollars of ready money, the Philosophical Society of Rotterdam wrote to the American Philosophical Society at Philadelphia, requesting to know what improvements had been made in the United States in the construction of steam-engines. The subject was referred to Benjamin H. Latrobe, the most eminent engineer in America, and his Report, presented to the Society in May, 1803, published in the Transactions, and transmitted abroad, showed the reasoning on which conservatism rested.

“During the general lassitude of mechanical exertion which succeeded the American Revolution,” said Latrobe, “the utility of steam-engines appears to have been forgotten; but the subject afterward started into very general notice in a form in which it could not possibly be attended with much success. A sort of mania began to prevail, which indeed has not yet entirely subsided, for impelling boats by steam-engines. . . . For a short time a passage-boat, rowed by a steam-engine, was established between Bordentown and Philadelphia, but it was soon laid aside. . . . There are indeed general objec-

tions to the use of the steam-engine for impelling boats, from which no particular mode of application can be free. These are, first, the weight of the engine and of the fuel ; second, the large space it occupies ; third, the tendency of its action to rack the vessel and render it leaky ; fourth, the expense of maintenance ; fifth, the irregularity of its motion and the motion of the water in the boiler and cistern, and of the fuel-vessel in rough water ; sixth, the difficulty arising from the liability of the paddles or oars to break if light, and from the weight, if made strong. Nor have I ever heard of an instance, verified by other testimony than that of the inventor, of a speedy and agreeable voyage having been performed in a steamboat of any construction. I am well aware that there are still many very respectable and ingenious men who consider the application of the steam-engine to the purpose of navigation as highly important and as very practicable, especially on the rapid waters of the Mississippi, and who would feel themselves almost offended at the expression of an opposite opinion. And perhaps some of the objections against it may be obviated. That founded on the expense and weight of the fuel may not for some years exist in the Mississippi, where there is a redundancy of wood on the banks ; but the cutting and loading will be almost as great an evil."

Within four years the steamboat was running, and Latrobe was its warmest friend. The dispute was a contest of temperaments, a divergence between minds, rather than a question of science ; and a few visionaries such as those to whom Latrobe alluded — men like Chancellor Livingston, Joel Barlow, John Stevens, Samuel L. Mitchill, and Robert Fulton —



dragged society forward. What but scepticism could be expected among a people thus asked to adopt the steamboat, when as yet the ordinary atmospheric steam-engine, such as had been in use in Europe for a hundred years, was practically unknown to them, and the engines of Watt were a fable? Latrobe's Report further said that in the spring of 1803, when he wrote, five steam-engines were at work in the United States, — one lately set up by the Manhattan Water Company in New York to supply the city with water; another in New York for sawing timber; two in Philadelphia, belonging to the city, for supplying water and running a rolling and slitting mill; and one at Boston employed in some manufacture. All but one of these were probably constructed after 1800, and Latrobe neglected to say whether they belonged to the old Newcomen type, or to Watt's manufacture, or to American invention; but he added that the chief American improvement on the steam-engine had been the construction of a wooden boiler, which developed sufficient power to work the Philadelphia pump at the rate of twelve strokes, of six feet, per minute. Twelve strokes a minute, or one stroke every five seconds, though not a surprising power, might have answered its purpose, had not the wooden boiler, as Latrobe admitted, quickly decomposed, and steam-leaks appeared at every bolt-hole.

If so eminent and so intelligent a man as Latrobe, who had but recently emigrated in the prime of life from England, knew little about Watt, and nothing

about Oliver Evans, whose experience would have been well worth communicating to any philosophical society in Europe, the more ignorant and unscientific public could not feel faith in a force of which they knew nothing at all. For nearly two centuries the Americans had struggled on foot or horseback over roads not much better than trails, or had floated down rushing streams in open boats momentarily in danger of sinking or upsetting. They had at length, in the Eastern and Middle States, reached the point of constructing turnpikes and canals. Into these undertakings they put sums of money relatively large, for the investment seemed safe and the profits certain. Steam as a locomotive power was still a visionary idea, beyond their experience, contrary to European precedent, and exposed to a thousand risks. They regarded it as a delusion.

About three years after Latrobe wrote his Report on the steam-engine, Robert Fulton began to build the boat which settled forever the value of steam as a locomotive power. According to Fulton's well-known account of his own experience, he suffered almost as keenly as Fitch, twenty years before, under the want of popular sympathy : —

“ When I was building my first steamboat at New York,” he said, according to Judge Story's report, “ the project was viewed by the public either with indifference or with contempt as a visionary scheme. My friends indeed were civil, but they were shy. They listened with patience to my explanations, but with a settled cast of

incredulity upon their countenances. I felt the full force of the lamentation of the poet, —

‘Truths would you teach, or save a sinking land,  
All fear, none aid you, and few understand.’

As I had occasion to pass daily to and from the building-yard while my boat was in progress, I have often loitered unknown near the idle groups of strangers gathering in little circles, and heard various inquiries as to the object of this new vehicle. The language was uniformly that of scorn, or sneer, or ridicule. The loud laugh often rose at my expense; the dry jest; the wise calculation of losses and expenditures; the dull but endless repetition of the Fulton Folly. Never did a single encouraging remark, a bright hope, or a warm wish cross my path.”

Possibly Fulton and Fitch, like other inventors, may have exaggerated the public apathy and contempt; but whatever was the precise force of the innovating spirit, conservatism possessed the world by right. Experience forced on men's minds the conviction that what had ever been must ever be. At the close of the eighteenth century nothing had occurred which warranted the belief that even the material difficulties of America could be removed. Radicals as extreme as Thomas Jefferson and Albert Gallatin were contented with avowing no higher aim than that America should reproduce the simpler forms of European republican society without European vices; and even this their opponents thought visionary. The United States had thus far made a single

great step in advance of the Old World, — they had agreed to try the experiment of embracing half a continent in one republican system; but so little were they disposed to feel confidence in their success, that Jefferson himself did not look on this American idea as vital; he would not stake the future on so new an invention. “Whether we remain in one confederacy,” he wrote in 1804, “or form into Atlantic and Mississippi confederations, I believe not very important to the happiness of either part.” Even over his liberal mind history cast a spell so strong, that he thought the solitary American experiment of political confederation “not very important” beyond the Alleghanies.

The task of overcoming popular inertia in a democratic society was new, and seemed to offer peculiar difficulties. Without a scientific class to lead the way, and without a wealthy class to provide the means of experiment, the people of the United States were still required, by the nature of their problems, to become a speculating and scientific nation. They could do little without changing their old habit of mind, and without learning to love novelty for novelty's sake. Hitherto their timidity in using money had been proportioned to the scantiness of their means. Henceforward they were under every inducement to risk great stakes and frequent losses in order to win occasionally a thousand fold. In the colonial state they had naturally accepted old processes as the best, and European experience as final authority. As an independent people, with half a

continent to civilize, they could not afford to waste time in following European examples, but must devise new processes of their own. A world which assumed that what had been must be, could not be scientific; yet in order to make the Americans a successful people, they must be roused to feel the necessity of scientific training. Until they were satisfied that knowledge was money, they would not insist upon high education; until they saw with their own eyes stones turned into gold, and vapor into cattle and corn, they would not learn the meaning of science.

### CHAPTER III.

WHETHER the United States were to succeed or fail in their economical and political undertakings, the people must still develop some intellectual life of their own, and the character of this development was likely to interest mankind. New conditions and hopes could hardly fail to produce a literature and arts more or less original. Of all possible triumphs, none could equal that which might be won in the regions of thought if the intellectual influence of the United States should equal their social and economical importance. Young as the nation was, it had already produced an American literature bulky and varied enough to furnish some idea of its probable qualities in the future, and the intellectual condition of the literary class in the United States at the close of the eighteenth century could scarcely fail to suggest both the successes and the failures of the same class in the nineteenth.

In intellectual tastes, as in all else, the Union showed well-marked divisions between New England, New York, Pennsylvania, and the Southern States. New England was itself divided between two intellectual centres, — Boston and New Haven. The Massachusetts and Connecticut schools were as old as the



colonial existence ; and in 1800 both were still alive, if not flourishing.

Society in Massachusetts was sharply divided by politics. In 1800 one half the population, represented under property qualifications by only some twenty thousand voters, was Republican. The other half, which cast about twenty-five thousand votes, included nearly every one in the professional and mercantile classes, and represented the wealth, social position, and education of the Commonwealth ; but its strength lay in the Congregational churches and in the cordial union between the clergy, the magistracy, the bench and bar, and respectable society throughout the State. This union created what was unknown beyond New England, — an organized social system, capable of acting at command either for offence or defence, and admirably adapted for the uses of the eighteenth century.

Had the authority of the dominant classes in Massachusetts depended merely on office, the task of overthrowing it would have been as simple as it was elsewhere ; but the New England obligarchy struck its roots deep into the soil, and was supported by the convictions of the people. Unfortunately the system was not and could not be quickly adapted to the movement of the age. Its starting-point lay in the educational system, which was in principle excellent ; but it was also antiquated. Little change had been made in it since colonial times. The common schools were what they had been from the first ; the acad-

emies and colleges were no more changed than the schools. On an average of ten years, from 1790 to 1800, thirty-nine young men annually took degrees from Harvard College; while during the ten years, 1766-1776, that preceded the Revolutionary War, forty-three bachelors of arts had been annually sent into the world, and even in 1720-1730 the average number had been thirty-five. The only sign of change was that in 1720-1730 about one hundred and forty graduates had gone into the Church, while in 1790-1800 only about eighty chose this career. At the earlier period the president, a professor of theology, one of mathematics, and four tutors gave instruction to the under-graduates. In 1800 the president, the professor of theology, the professor of mathematics, and a professor of Hebrew, created in 1765, with the four tutors did the same work. The method of instruction had not changed in the interval, being suited to children fourteen years of age; the instruction itself was poor, and the discipline was indifferent. Harvard College had not in eighty years made as much progress as was afterward made in twenty. Life was quickening within it as within all mankind,—the spirit and vivacity of the coming age could not be wholly shut out; but none the less the college resembled a priesthood which had lost the secret of its mysteries, and patiently stood holding the flickering torch before cold altars, until God should vouchsafe a new dispensation of sunlight.

Nevertheless, a medical school with three professors

had been founded in 1783, and every year gave degrees to an average class of two doctors of medicine. Science had already a firm hold on the college, and a large part of the conservative clergy were distressed by the liberal tendencies which the governing body betrayed. This was no new thing. The college always stood somewhat in advance of society, and never joined heartily in dislike for liberal movements; but unfortunately it had been made for an instrument, and had never enjoyed the free use of its powers. Clerical control could not be thrown off, for if the college was compelled to support the clergy, on the other hand the clergy did much to support the college; and without the moral and material aid of this clerical body, which contained several hundred of the most respected and respectable citizens, clad in every town with the authority of spiritual magistrates, the college would have found itself bankrupt in means and character. The graduates passed from the college to the pulpit, and from the pulpit attempted to hold the college, as well as their own congregations, facing toward the past. "Let us guard against the insidious encroachments of *innovation*," they preached,—"that evil and beguiling spirit which is now stalking to and fro through the earth, seeking whom he may destroy." These words were spoken by Jedediah Morse, a graduate of Yale in 1783, pastor of the church at Charlestown, near Boston, and still known in biographical dictionaries as "the father of American geography." They were

contained in the Election Sermon of this worthy and useful man, delivered June 6, 1803; but the sentiment was not peculiar to him, or confined to the audience he was then addressing, — it was the burden of a thousand discourses enforced by a formidable authority.

The power of the Congregational clergy, which had lasted unbroken until the Revolution, was originally minute and inquisitory, equivalent to a police authority. During the last quarter of the century the clergy themselves were glad to lay aside the more odious watchfulness over their parishes, and to welcome social freedom within limits conventionally fixed; but their old authority had not wholly disappeared. In country parishes they were still autocratic. Did an individual defy their authority, the minister put his three-cornered hat on his head, took his silver-topped cane in his hand, and walked down the village street, knocking at one door and another of his best parishioners, to warn them that a spirit of license and of French infidelity was abroad, which could be repressed only by a strenuous and combined effort. Any man once placed under this ban fared badly if he afterward came before a bench of magistrates. The temporal arm vigorously supported the ecclesiastical will. Nothing tended so directly to make respectability conservative, and conservatism a fetich of respectability, as this union of bench and pulpit. The democrat had no caste; he was not respectable; he was a Jacobin, — and no such character was

admitted into a Federalist house. Every dissolute intriguer, loose-liver, forger, false-coiner, and prison-bird ; every hair-brained, loud-talking demagogue ; every speculator, scoffer, and atheist,—was a follower of Jefferson ; and Jefferson was himself the incarnation of their theories.

A literature belonging to this subject exists,—stacks of newspapers and sermons, mostly dull, and wanting literary merit. In a few of them Jefferson figured under the well-remembered disguises of Puritan politics : he was Ephraim, and had mixed himself among the people ; had apostatized from his God and religion ; gone to Assyria, and mingled himself among the heathen ; “ gray hairs are here and there upon him, yet he knoweth not ;” or he was Jeroboam, who drave Israel from following the Lord, and made them sin a great sin. He had doubted the authority of revelation, and ventured to suggest that petrified shells found embedded in rocks fifteen thousand feet above sea-level could hardly have been left there by the Deluge, because if the whole atmosphere were condensed as water, its weight showed that the seas would be raised only fifty-two and a half feet. Sceptic as he was, he could not accept the scientific theory that the ocean-bed had been uplifted by natural forces ; but although he had thus instantly deserted this battery raised against revelation, he had still expressed the opinion that a universal deluge was *equally* unsatisfactory as an explanation, and had avowed preference for a profession of ignorance rather than a

belief in error. He had said, "It does me no injury for my neighbors to say there are twenty gods, or no god," and that all the many forms of religious faith in the Middle States were "good enough, and sufficient to preserve peace and order." He was notoriously a deist; he probably ridiculed the doctrine of total depravity; and he certainly would never have part or portion in the blessings of the New Covenant, or be saved because of grace.

No abler or more estimable clergyman lived than Joseph Buckminster, the minister of Portsmouth, in New Hampshire, and in his opinion Jefferson was bringing a judgment upon the people.

"I would not be understood to insinuate," said he in his sermon on Washington's death, "that contemners of religious duties, and even men void of religious principle, may not have an attachment to their country and a desire for its civil and political prosperity, — nay, that they may not even expose themselves to great dangers, and make great sacrifices to accomplish this object; but by their impiety . . . they take away the heavenly defence and security of a people, and render it necessary for him who ruleth among the nations in judgment to testify his displeasure against those who despise his laws and condemn his ordinances."

Yet the congregational clergy, though still greatly respected, had ceased to be leaders of thought. Theological literature no longer held the prominence it had enjoyed in the days of Edwards and Hopkins. The popular reaction against Calvinism, felt rather



than avowed, stopped the development of doctrinal theology; and the clergy, always poor as a class, with no weapons but their intelligence and purity of character, commonly sought rather to avoid than to challenge hostility. Such literary activity as existed was not clerical but secular. Its field was the Boston press, and its recognized literary champion was Fisher Ames.

The subject of Ames's thought was exclusively political. At that moment every influence combined to maintain a stationary condition in Massachusetts politics. The manners and morals of the people were pure and simple; their society was democratic; in the worst excesses of their own revolution they had never become savage or bloodthirsty; their experience could not explain, nor could their imagination excuse, wild popular excesses; and when in 1793 the French nation seemed mad with the frenzy of its recovered liberties, New England looked upon the bloody and blasphemous work with such horror as religious citizens could not but feel. Thenceforward the mark of a wise and good man was that he abhorred the French Revolution, and believed democracy to be its cause. Like Edmund Burke, they listened to no argument: "It is a vile, illiberal school, this French Academy of the sans-culottes; there is nothing in it that is fit for a gentleman to learn." The answer to every democratic suggestion ran in a set phrase, "Look at France!" This idea became a monomania with the New England leaders, and took exclusive

hold of Fisher Ames, their most brilliant writer and talker, until it degenerated into a morbid illusion. During the last few months of his life, even so late as 1808, this dying man could scarcely speak of his children without expressing his fears of their future servitude to the French. He believed his alarms to be shared by his friends. "Our days," he wrote, "are made heavy with the pressure of anxiety, and our nights restless with visions of horror. We listen to the clank of chains, and overhear the whispers of assassins. We mark the barbarous dissonance of mingled rage and triumph in the yell of an infuriated mob; we see the dismal glare of their burnings, and scent the loathsome steam of human victims offered in sacrifice." In theory the French Revolution was not an argument or a proof, but only an illustration, of the workings of divine law; and what had happened in France must sooner or later happen in America if the ignorant and vicious were to govern the wise and good.

The bitterness against democrats became intense after the month of May, 1800, when the approaching victory of Jefferson was seen to be inevitable. Then for the first time the clergy and nearly all the educated and respectable citizens of New England began to extend to the national government the hatred which they bore to democracy. The expressions of this mixed antipathy filled volumes. "Our country," wrote Fisher Ames in 1803, "is too big for union, too sordid for patriotism, too democratic

for liberty. What is to become of it, he who made it best knows. Its vice will govern it, by practising upon its folly. This is ordained for democracies." He explained why this inevitable fate awaited it. "A democracy cannot last. Its nature ordains that its next change shall be into a military despotism, — of all known governments perhaps the most prone to shift its head, and the slowest to mend its vices. The reason is that the tyranny of what is called the people, and that by the sword, both operate alike to debase and corrupt, till there are neither men left with the spirit to desire liberty, nor morals with the power to sustain justice. Like the burning pestilence that destroys the human body, nothing can subsist by its dissolution but vermin." George Cabot, whose political opinions were law to the wise and good, held the same convictions. "Even in New England," wrote Cabot in 1804, "where there is among the body of the people more wisdom and virtue than in any other part of the United States, we are full of errors which no reasoning could eradicate, if there were a Lycurgus in every village. We are democratic altogether, and I hold democracy in its natural operation to be the government of the worst."

Had these expressions of opinion been kept to the privacy of correspondence, the public could have ignored them; but so strong were the wise and good in their popular following, that every newspaper seemed to exult in denouncing the people. They urged the use of force as the protection of wisdom

and virtue. A paragraph from Dennie's "Portfolio," reprinted by all the Federalist newspapers in 1803, offered one example among a thousand of the infatuation which possessed the Federalist press, neither more extravagant nor more treasonable than the rest:—

"A democracy is scarcely tolerable at any period of national history. Its omens are always sinister, and its powers are unpropitious. It is on its trial here, and the issue will be civil war, desolation, and anarchy. No wise man but discerns its imperfections, no good man but shudders at its miseries, no honest man but proclaims its fraud, and no brave man but draws his sword against its force. The institution of a scheme of policy so radically contemptible and vicious is a memorable example of what the villany of some men can devise, the folly of others receive, and both establish in spite of reason, reflection, and sensation."

The Philadelphia grand jury indicted Dennie for this paragraph as a seditious libel, but it was not more expressive than the single word uttered by Alexander Hamilton, who owed no small part of his supremacy to the faculty of expressing the prejudices of his followers more tersely than they themselves could do. Compressing the idea into one syllable, Hamilton, at a New York dinner, replied to some democratic sentiment by striking his hand sharply on the table and saying, "Your people, sir,—your people is a great *beast*!"

The political theories of these ultra-conservative

New Englanders did not require the entire exclusion of all democratic influence from government. "While I hold," said Cabot, "that a government altogether popular is in effect a government of the populace, I maintain that no government can be relied on that has not a material portion of the democratic mixture in its composition." Cabot explained what should be the true portion of democratic mixture: "If no man in New England could vote for legislators who was not possessed in his own right of two thousand dollars' value *in land*, we could do something better." The Constitution of Massachusetts already restricted the suffrage to persons "having a freehold estate within the commonwealth of an annual income of three pounds, or any estate of the value of sixty pounds." A further restriction to freeholders whose estate was worth two thousand dollars would hardly have left a material mixture of any influence which democrats would have recognized as theirs.

Meanwhile even Cabot and his friends Ames and Colonel Hamilton recognized that the reform they wished could be effected only with the consent of the people; and firm in the conviction that democracy must soon produce a crisis, as in Greece and Rome, in England and France, when political power must revert to the wise and good, or to the despotism of a military chief, they waited for the catastrophe they foresaw. History and their own experience supported them. They were right, so far as human knowledge could make them so; but the old spirit of

Puritan obstinacy was more evident than reason or experience in the simple-minded, overpowering conviction with which the clergy and serious citizens of Massachusetts and Connecticut, assuming that the people of America were in the same social condition as the contemporaries of Catiline and the adherents of Robespierre, sat down to bide their time until the tempest of democracy should drive the frail government so near destruction that all men with one voice should call on God and the Federalist prophets for help. The obstinacy of the race was never better shown than when, with the sunlight of the nineteenth century bursting upon them, these resolute sons of granite and ice turned their faces from the sight, and smiled in their sardonic way at the folly or wickedness of men who could pretend to believe the world improved because henceforth the ignorant and vicious were to rule the United States and govern the churches and schools of New England.

Even Boston, the most cosmopolitan part of New England, showed no tendency in its educated classes to become American in thought or feeling. Many of the ablest Federalists, and among the rest George Cabot, Theophilus Parsons, and Fisher Ames, shared few of the narrower theological prejudices of their time, but were conservatives of the English type, whose alliance with the clergy betrayed as much policy as religion, and whose intellectual life was wholly English. Boston made no strong claim to intellectual prominence. Neither clergy, lawyers,



physicians, nor literary men were much known beyond the State. Fisher Ames enjoyed a wider fame; but Ames's best political writing was saturated with the despair of the tomb to which his wasting body was condemned. Five years had passed since he closed his famous speech on the British Treaty with the foreboding that if the treaty were not carried into effect, "even I, slender and almost broken as my hold upon life is, may outlive the government and constitution of my country." Seven years more were to pass in constant dwelling upon the same theme, in accents more and more despondent, before the long-expected grave closed over him, and his warning voice ceased to echo painfully on the air. The number of his thorough-going admirers was small, if his own estimate was correct. "There are," he said, "not many, perhaps not five hundred, even among the Federalists, who yet allow themselves to view the progress of licentiousness as so speedy, so sure, and so fatal as the deplorable experience of our country shows that it is, and the evidence of history and the constitution of human nature demonstrate that it must be." These five hundred, few as they were, comprised most of the clergy and the State officials, and overawed large numbers more.

Ames was the mouthpiece in the press of a remarkable group, of which George Cabot was the recognized chief in wisdom, and Timothy Pickering the most active member in national politics. With Ames, Cabot, and Pickering, joined in confidential relations,

was Theophilus Parsons, who in the year 1800 left Newburyport for Boston. Parsons was an abler man than either Cabot, Ames, or Pickering, and his influence was great in holding New England fast to an independent course which could end only in the overthrow of the Federal constitution which these men had first pressed upon an unwilling people; but though gifted with strong natural powers, backed by laborious study and enlivened by the ready and somewhat rough wit native to New England, Parsons was not bold on his own account; he was felt rather than seen, and although ever ready in private to advise strong measures, he commonly let others father them before the world.

These gentlemen formed the Essex Junto, so called from the county of Essex where their activity was first felt. According to Ames, not more than five hundred men fully shared their opinions; but Massachusetts society was so organized as to make their influence great, and experience foretold that as the liberal Federalists should one by one wander to the Democratic camp where they belonged, the conservatism of those who remained would become more bitter and more absolute as the Essex Junto represented a larger and larger proportion of their numbers.

Nevertheless, the reign of old-fashioned conservatism was near its end. The New England Church was apparently sound; even Unitarians and Baptists were recognized as parts of one fraternity. Except

a few Roman and Anglican bodies, all joined in the same worship, and said little on points of doctrinal difference. No one had yet dared to throw a fire-brand into the temple; but Unitarians were strong among the educated and wealthy class, while the tendencies of a less doctrinal religious feeling were shaping themselves in Harvard College. William Ellery Channing took his degree in 1798, and in 1800 was a private tutor in Virginia. Joseph Stevens Buckminster, thought by his admirers a better leader than Channing, graduated in 1800, and was teaching boys to construe their Latin exercises at Exeter Academy. Only the shell of orthodoxy was left, but respectable society believed this shell to be necessary as an example of Christian unity and a safeguard against more serious innovations. No one could fail to see that the public had lately become restive under its antiquated discipline. The pulpits still fulminated against the fatal tolerance which within a few years had allowed theatres to be opened in Boston, and which scandalized God-fearing men by permitting public advertisements that "Hamlet" and "Othello" were to be performed in the town founded to protest against worldly pageants. Another innovation was more strenuously resisted. Only within the last thirty years had Sunday travel been allowed even in England; in Massachusetts and Connecticut it was still forbidden by law, and the law was enforced. Yet not only travellers, but inn-keepers and large numbers of citizens connived at Sun-

day travel, and it could not long be prevented. The clergy saw their police authority weakening year by year, and understood, without need of many words, the tacit warning of the city congregations that in this world they must be allowed to amuse themselves, even though they were to suffer for it in the next.

The longing for amusement and freedom was a reasonable and a modest want. Even the young theologians, the Buckminsters and Channings, were hungry for new food. Boston was little changed in appearance, habits, and style from what it had been under its old king. When young Dr. J. C. Warren returned from Europe about the year 1800, to begin practice in Boston, he found gentlemen still dressed in colored coats and figured waistcoats, short breeches buttoning at the knee, long boots with white tops, ruffled shirts and wristbands, a white cravat filled with what was called a "pudding," and for the elderly, cocked hats, and wigs which once every week were sent to the barber's to be dressed,—so that every Saturday night the barbers' boys were seen carrying home piles of wig-boxes in readiness for Sunday's church. At evening parties gentlemen appeared in white small-clothes, silk stockings and pumps, with a colored or white waistcoat. There were few hackney-coaches, and ladies walked to evening entertainments. The ancient minuet was danced as late as 1806. The waltz was not yet tolerated.

Fashionable society was not without charm. In summer Southern visitors appeared, and admired the

town, with its fashionable houses perched on the hill-sides, each in its own garden, and each looking seaward over harbor and islands. Boston was then what Newport afterward became, and its only rival as a summer watering-place in the North was Ballston, whither society was beginning to seek health before finding it a little farther away at Saratoga. Of intellectual amusement there was little more at one place than at the other, except that the Bostonians devoted themselves more seriously to church-going and to literature. The social instinct took shape in varied forms, but was highly educated in none; while the typical entertainment in Boston, as in New York, Philadelphia, and Charleston, was the state dinner,—not the light, feminine triviality which France introduced into an amusement-loving world, but the serious dinner of Sir Robert Walpole and Lord North, where gout and plethora waited behind the chairs; an effort of animal endurance.

There was the arena of intellectual combat, if that could be called combat where disagreement in principle was not tolerated. The talk of Samuel Johnson and Edmund Burke was the standard of excellence to all American society that claimed intellectual rank, and each city possessed its own circle of Federalist talkers. Democrats rarely figured in these entertainments, at least in fashionable private houses. "There was no exclusiveness," said a lady who long outlived the time; "but I should as soon have expected to see a cow in a drawing-room as a Jacobin."

In New York, indeed, Colonel Burr and the Livingstons may have held their own, and the active-minded Dr. Mitchill there, like Dr. Eustis in Boston, was an agreeable companion. Philadelphia was comparatively cosmopolitan; in Baltimore the Smiths were a social power; and Charleston, after deserting Federal principles in 1800, could hardly ignore Democrats; but Boston society was still pure. The clergy took a prominent part in conversation, but Fisher Ames was the favorite of every intelligent company; and when Gouverneur Morris, another brilliant talker, visited Boston, Ames was pitted against him.

The intellectual wants of the community grew with the growing prosperity; but the names of half-a-dozen persons could hardly be mentioned whose memories survived by intellectual work made public in Massachusetts between 1783 and 1800. Two or three local historians might be numbered, including Jeremy Belknap, the most justly distinguished. Jedediah Morse the geographer was well known; but not a poet, a novelist, or a scholar could be named. Nathaniel Bowditch did not publish his "Practical Navigator" till 1800, and not till then did Dr. Waterhouse begin his struggle to introduce vaccination. With the exception of a few Revolutionary statesmen and elderly clergymen, a political essayist like Ames, and lawyers like Samuel Dexter and Theophilus Parsons, Massachusetts could show little that warranted a reputation for genius; and, in truth, the intellectual prominence of Boston began



as the conservative system died out, starting with the younger Buckminster several years after the century opened.

The city was still poorer in science. Excepting the medical profession, which represented nearly all scientific activity, hardly a man in Boston got his living either by science or art. When in the year 1793 the directors of the new Middlesex Canal Corporation, wishing to bring the Merrimac River to Boston Harbor, required a survey of an easy route not thirty miles long, they could find no competent civil engineer in Boston, and sent to Philadelphia for an Englishman named Weston, engaged on the Delaware and Schuylkill Canal.

Possibly a few Bostonians could read and even speak French; but Germany was nearly as unknown as China, until Madame de Staël published her famous work in 1814. Even then young George Ticknor, incited by its account of German university education, could find neither a good teacher nor a dictionary, nor a German book in the shops or public libraries of the city or at the college in Cambridge. He had discovered a new world.

Pope, Addison, Akenside, Beattie, and Young were still the reigning poets. Burns was accepted by a few; and copies of a volume were advertised by booksellers, written by a new poet called Wordsworth. America offered a fair demand for new books, and anything of a light nature published in England was sure to cross the ocean. Wordsworth crossed with

the rest, and his "Lyrical Ballads" were reprinted in 1802, not in Boston or New York, but in Philadelphia, where they were read and praised. In default of other amusements, men read what no one could have endured had a choice of amusements been open. Neither music, painting, science, the lecture-room, nor even magazines offered resources that could rival what was looked upon as classical literature. Men had not the alternative of listening to political discussions, for stump-speaking was a Southern practice not yet introduced into New England, where such a political canvass would have terrified society with dreams of Jacobin license. The clergy and the bar took charge of politics; the tavern was the club and the forum of political discussion; but for those who sought other haunts, and especially for women, no intellectual amusement other than what was called "belles-lettres" existed to give a sense of occupation to an active mind. This keen and innovating people, hungry for the feast that was almost served, the Walter Scotts and Byrons so near at hand, tried meanwhile to nourish themselves with husks.

Afraid of Shakspeare and the drama, trained to the standards of Queen Anne's age, and ambitious beyond reason to excel, the New Englanders attempted to supply their own wants. Massachusetts took no lead in the struggle to create a light literature, if such poetry and fiction could be called light. In Connecticut the Muses were most obstinately wooed; and there, after the Revolutionary War, a persistent

effort was made to give prose the form of poetry. The chief of the movement was Timothy Dwight, a man of extraordinary qualities, but one on whom almost every other mental gift had been conferred in fuller measure than poetical genius. Twenty-five years had passed since young Dwight, fresh from Yale College, began his career by composing an epic poem, in eleven books and near ten thousand lines, called "The Conquest of Canaan." In the fervor of patriotism, before independence was secured or the French Revolution imagined, he pictured the great Hebrew leader Joshua preaching the Rights of Man, and prophesying the spread of his "sons" over America:—

"Then o'er wide lands, as blissful Eden bright,  
Type of the skies, and seats of pure delight,  
Our sons with prosperous course shall stretch their sway,  
And claim an empire spread from sea to sea;  
In one great whole th' harmonious tribes combine,  
Trace Justice' path, and choose their chiefs divine;  
On Freedom's base erect the heavenly plan,  
Teach laws to reign, and save the Rights of Man.  
Then smiling Art shall wrap the fields in bloom,  
Fine the rich ore, and guide the useful loom;  
Then lofty towers in golden pomp arise,  
Then spiry cities meet auspicious skies;  
The soul on Wisdom's wing sublimely soar,  
New virtues cherish and new truths explore;  
Through Time's long tract our name celestial run,  
Climb in the east and circle with the sun;  
And smiling Glory stretch triumphant wings  
O'er hosts of heroes and o'er tribes of kings."

A world of eighteenth-century thought, peopled with personifications, lay buried in the ten thousand lines of President Dwight's youthful poem. Perhaps in the year 1800, after Jefferson's triumph, Dwight would have been less eager that his hero should save the Rights of Man; by that time the phrase had acquired a flavor of French infidelity which made it unpalatable to good taste. Yet the same Jeffersonian spirit ran through Dwight's famous national song, which was also written in the Revolutionary War: —

"Columbia, Columbia, to glory arise,  
The queen of the world and child of the skies!

Thy heroes the rights of mankind shall defend,  
And triumph pursue them, and glory attend.

While the ensigns of union in triumph unfurled  
Hush the tumult of war and give peace to the world."

"Peace to the world" was the essence of Jeffersonian principles, worth singing in something better than jingling metre and indifferent rhyme; but President Dwight's friends in 1800 no longer sang this song. More and more conservative as he grew older, he published in 1797 an orthodox "Triumph of Infidelity," introduced by a dedication to Voltaire. His rebuke to mild theology was almost as severe as that to French deism: —

"There smiled the smooth divine, unused to wound  
The sinner's heart with Hell's alarming sound."

His poetical career reached its climax in 1794 in a clerical Connecticut pastoral in seven books, called "Greenfield Hill." Perhaps his verses were not above the level of the Beatties and Youngs he imitated; but at least they earned for President Dwight no mean reputation in days when poetry was at its lowest ebb, and made him the father of a school.

One quality gave respectability to his writing apart from genius. He loved and believed in his country. Perhaps the uttermost depths of his nature were stirred only by affection for the Connecticut Valley; but after all where was human nature more respectable than in that peaceful region? What had the United States then to show in scenery and landscape more beautiful or more winning than that country of meadow and mountain? Patriotism was no ardent feeling among the literary men of the time, whose general sentiment was rather expressed by Clifton's lines:—

"In these cold shades, beneath these shifting skies,  
Where Fancy sickens, and where Genius dies,  
Where few and feeble are the Muse's strains,  
And no fine frenzy riots in the veins,  
There still are found a few to whom belong  
The fire of virtue and the soul of song."

William Clifton, a Pennsylvania Friend, who died in 1799 of consumption, in his twenty-seventh year, knew nothing of the cold shades and shifting skies which chilled the genius of European poets; he knew

only that America cared little for such genius and fancy as he could offer, and he rebelled against the neglect. He was better treated than Wordsworth, Keats, or Shelley; but it was easy to blame the public for dulness and indifference, though readers were kinder than authors had a right to expect. Even Clifton was less severe than some of his contemporaries. A writer in the "Boston Anthology," for January, 1807, uttered in still stronger words the prevailing feeling of the literary class:—

"We know that in this land, where the spirit of democracy is everywhere diffused, we are exposed as it were to a poisonous atmosphere, which blasts everything beautiful in nature, and corrodes everything elegant in art; we know that with us 'the rose-leaves fall ungathered,' and we believe that there is little to praise and nothing to admire in most of the objects which would first present themselves to the view of a stranger."

Yet the American world was not unsympathetic toward Clifton and his rivals, though they strained prose through their sieves of versification, and showed open contempt for their audience. Toward President Dwight the public was even generous; and he returned the generosity with parental love and condescension which shone through every line he wrote. For some years his patriotism was almost as enthusiastic as that of Joel Barlow. He was among the numerous rivals of Macaulay and Shelley for the honor of inventing the stranger to sit among the



ruins of St. Paul's; and naturally America supplied the explorer who was to penetrate the forest of London and indulge his national self-complacency over ruined temples and towers.

"Some unknown wild, some shore without a name,  
In all thy pomp shall then majestic shine  
As silver-headed Time's slow years decline.  
Not ruins only meet th' inquiring eye;  
Where round yon mouldering oak vain brambles twine,  
The filial stem, already towering high,  
Erelong shall stretch his arms and nod in yonder sky."

From these specimens of President Dwight's poetry any critic, familiar with the time, could infer that his prose was sensible and sound. One of the few books of travel which will always retain value for New Englanders was written by President Dwight to describe his vacation rambles; and although in his own day no one would have ventured to insult him by calling these instructive volumes amusing, the quaintness which here and there gave color to the sober narrative had a charm of its own. How could the contrast be better expressed between volatile Boston and orthodox New Haven than in Dwight's quiet reproof, mixed with paternal tenderness? The Bostonians, he said, were distinguished by a lively imagination, ardor, and sensibility; they were "more like the Greeks than the Romans;" admired where graver people would only approve; applauded or hissed where another audience would be silent; their language was

frequently hyperbolical, their pictures highly colored; the tea shipped to Boston was destroyed,—in New York and Philadelphia it was stored; education in Boston was superficial, and Boston women showed the effects of this misfortune, for they practised accomplishments only that they might be admired, and were taught from the beginning to regard their dress as a momentous concern.

Under Dwight's rule the women of the Connecticut Valley were taught better; but its men set to the Bostonians an example of frivolity without a parallel, and they did so with the connivance of President Dwight and under the lead of his brother Theodore. The frivolity of the Hartford wits, as they were called, was not so light as that of Canning and the "Anti-Jacobin," but had it been heavier than the "Conquest of Canaan" itself, it would still have found no literary rivalry in Boston. At about the time when Dwight composed his serious epic, another tutor at Yale, John Trumbull, wrote a burlesque epic in Hudibrastic verse, "McFingal," which his friend Dwight declared to be not inferior to "Hudibras" in wit and humor, and in every other respect superior. When "Hudibras" was published, more than a hundred years before, Mr. Pepys remarked: "It hath not a good liking in me, though I had tried but twice or three times reading to bring myself to think it witty." After the lapse of more than another century, the humor of neither poem may seem worth imitation; but to Trumbull in 1784 Butler was a modern classic, for the standard of

taste between 1663 and 1784 changed less than in any twenty years of the following century. "McFingal" was a success, and laid a solid foundation for the coming school of Hartford wits. Posterity ratified the verdict of Trumbull's admirers by preserving for daily use a few of his lines quoted indiscriminately with Butler's best:—

"What has posterity done for us?"

"Optics sharp it needs, I ween,  
To see what is not to be seen."

"A thief ne'er felt the halter draw  
With good opinion of the law."

Ten years after the appearance of "McFingal," and on the strength of its success, Trumbull, Lemuel Hopkins, Richard Alsop, Theodore Dwight, Joel Barlow, and others began a series of publications, "The Anarchiad," "The Echo," "The Guillotine," and the like, in which they gave tongue to their wit and sarcasm. As Alsop described the scene,—

"Begrimed with blood where erst the savage fell,  
Shrieked the wild war-whoop with infernal yell,  
The Muses sing; lo, Trumbull wakes the lyre.

.....  
Majestic Dwight, sublime in epic strain,  
Paints the fierce horrors of the crimson plain;  
And in Virgilian Barlow's tuneful lines  
With added splendor great Columbus shines."

Perhaps the Muses would have done better by not interrupting the begrimed savage; for Dwight, Trum-

bull, Alsop, and Hopkins, whatever their faults, were Miltonic by the side of Joel Barlow. Yet Barlow was a figure too important in American history to be passed without respectful attention. He expressed better than any one else that side of Connecticut character which roused at the same instant the laughter and the respect of men. Every human influence twined about his career and lent it interest; every forward movement of his time had his sympathy, and few steps in progress were made which he did not assist. His ambition, above the lofty ambition of Jefferson, made him aspire to be a Connecticut Mæcenas and Virgil in one; to patronize Fulton and employ Smirke; counsel Jefferson and contend with Napoleon. In his own mind a figure such as the world rarely saw,—a compound of Milton, Rousseau, and the Duke of Bridgewater,—he had in him so large a share of conceit, that tragedy, which would have thrown a solemn shadow over another man's life, seemed to render his only more entertaining. As a poet, he undertook to do for his native land what Homer had done for Greece and Virgil for Rome, Milton for England and Camoens for Portugal,—to supply America with a great epic, without which no country could be respectable; and his "Vision of Columbus," magnified afterward into the "Columbiad," with a magnificence of typography and illustration new to the United States, remained a monument of his ambition. In this vision Columbus was shown a variety of coming

celebrities, including all the heroes of the Revolutionary War:—

“Here stood stern Putnam, scored with ancient scars,  
 The living records of his country’s wars;  
 Wayne, like a moving tower, assumes his post,  
 Fires the whole field, and is himself a host;  
 Undaunted Stirling, prompt to meet his foes,  
 And Gates and Sullivan for action rose;  
 Macdougall, Clinton, guardians of the State,  
 Stretch the nerved arm to pierce the depth of fate;  
 Moultrie and Sumter lead their banded powers;  
 Morgan in front of his bold riflers towers,  
 His host of keen-eyed marksmen, skilled to pour  
 Their slugs unerring from the twisted bore;  
 No sword, no bayonet they learn to wield,  
 They gall the flank, they skirt the battling field,  
 Cull out the distant foe in full horse speed,  
 Couch the long tube and eye the silver bead,  
 Turn as he turns, dismiss the whizzing lead,  
 And lodge the death-ball in his heedless head.”

More than seven thousand lines like these furnished constant pleasure to the reader, the more because the “Columbiad” was accepted by the public in a spirit as serious as that in which it was composed. The Hartford wits, who were bitter Federalists, looked upon Barlow as an outcast from their fold, a Jacobin in politics, and little better than a French atheist in religion; but they could not deny that his poetic garments were of a piece with their own. Neither could they without great ingratitude repudiate his poetry as they did his politics, for they themselves figured with Manco Capac, Montezuma,

Raleigh, and Pocahontas before the eyes of Columbus ; and the world bore witness that Timothy Dwight, "Heaven in his eye and rapture on his tongue," tuned his "high harp" in Barlow's inspired verses. Europe was as little disposed as America to cavil ; and the Abbé Grégoire assured Barlow in a printed letter that this monument of genius and typography would immortalize the author and silence the criticisms of Pauw and other writers on the want of talent in America.

That the "Columbiad" went far to justify those criticisms was true ; but on the other hand it proved something almost equivalent to genius. Dwight, Trumbull, and Barlow, whatever might be their differences, united in offering proof of the boundless ambition which marked the American character. Their aspirations were immense, and sooner or later such restless craving was sure to find better expression. Meanwhile Connecticut was a province by itself, a part of New England rather than of the United States. The exuberant patriotism of the Revolution was chilled by the steady progress of democratic principles in the Southern and Middle States, until at the election of Jefferson in 1800 Connecticut stood almost alone with no intellectual companion except Massachusetts, while the breach between them and the Middle States seemed to widen day by day. That the separation was only superficial was true ; but the connection itself was not yet deep. An extreme Federalist partisan like Noah Webster did not cease



working for his American language and literature because of the triumph of Jeffersonian principles elsewhere; Barlow became more American when his friends gained power; the work of the colleges went on unbroken; but prejudices, habits, theories, and laws remained what they had been in the past, and in Connecticut the influence of nationality was less active than ten, twenty, or even thirty years before. Yale College was but a reproduction of Harvard with stricter orthodoxy, turning out every year about thirty graduates, of whom nearly one fourth went into the Church. For the last ten years the number tended rather to diminish than to increase.

Evidently an intellectual condition like that of New England could not long continue. The thoughts and methods of the eighteenth century held possession of men's minds only because the movement of society was delayed by political passions. Massachusetts, and especially Boston, already contained a younger generation eager to strike into new paths, while forcibly held in the old ones. The more decidedly the college graduates of 1800 disliked democracy and its habits of thought, the more certain they were to compensate for political narrowness by freedom in fields not political. The future direction of the New England intellect seemed already suggested by the impossibility of going further in the line of President Dwight and Fisher Ames. Met by a barren negation on that side, thought was driven to some new channel; and the United States were the more concerned

in the result because, with the training and literary habits of New Englanders and the new models already established in Europe for their guidance, they were likely again to produce something that would command respect.

## CHAPTER IV.

BETWEEN New England and the Middle States was a gap like that between Scotland and England. The conceptions of life were different. In New England society was organized on a system,—a clergy in alliance with a magistracy; universities supporting each, and supported in turn,—a social hierarchy, in which respectability, education, property, and religion united to defeat and crush the unwise and vicious. In New York wisdom and virtue, as understood in New England, were but lightly esteemed. From an early moment no small number of those who by birth, education, and property were natural leaders of the wise and virtuous, showed themselves ready to throw in their lot with the multitude. Yet New York, much more than New England, was the home of natural leaders and family alliances. John Jay, the governor; the Schuylers, led by Philip Schuyler and his son-in-law Alexander Hamilton; the Livingstons, led by Robert R. Livingston the chancellor, with a promising younger brother Edward nearly twenty years his junior, and a brother-in-law John Armstrong, whose name and relationship will be prominent in this narrative, besides Samuel Osgood, Morgan Lewis, and Smith Thompson, other

connections by marriage with the great Livingston stock; the Clintons, headed by Governor George Clinton, and supported by the energy of De Witt his nephew, thirty years of age, whose close friend Ambrose Spencer was reckoned as one of the family; finally, Aaron Burr, of pure Connecticut Calvinistic blood, whose two active lieutenants, William P. Van Ness and John Swartwout, were socially well connected and well brought up, — all these Jays, Schuylers, Livingstons, Clintons, Burrs, had they lived in New England, would probably have united in the support of their class, or abandoned the country; but being citizens of New York they quarrelled. On one side Governor Jay, General Schuyler, and Colonel Hamilton were true to their principles. Rufus King, the American minister in London, by birth a New Englander, adhered to the same connection. On the other hand, George Clinton, like Samuel Adams in Boston, was a Republican by temperament, and his protest against the Constitution made him leader of the Northern Republicans long before Jefferson was mentioned as his rival. The rest were all backsliders from Federalism, — and especially the Livingston faction, who, after carefully weighing arguments and interests, with one accord joined the mob of free-thinking democrats, the “great beast” of Alexander Hamilton. Aaron Burr, who prided himself on the inherited patrician quality of his mind and manners, coldly assuming that wisdom and virtue were powerless in a democracy, followed Chancellor Livingston

into the society of Cheetham and Paine. Even the influx of New Englanders into the State could not save the Federalists ; and in May, 1800, after a sharp struggle, New York finally enrolled itself on the side of Jefferson and George Clinton.

Fortunately for society, New York possessed no church to overthrow, or traditional doctrines to root out, or centuries of history to disavow. Literature of its own it had little ; of intellectual unity, no trace. Washington Irving was a boy of seventeen wandering along the banks of the river he was to make famous ; Fenimore Cooper was a boy of eleven playing in the primitive woods of Otsego, or fitting himself at Albany for entrance to Yale College ; William Cullen Bryant was a child of six in the little village of Cummington, in western Massachusetts.

Political change could as little affect the educational system as it could affect history, church, or literature. In 1795, at the suggestion of Governor Clinton, an attempt had been made by the New York legislature to create a common-school system, and a sum of fifty thousand dollars was for five years annually applied to that object ; but in 1800 the appropriation was exhausted, and the thirteen hundred schools which had been opened were declining. Columbia College, with a formidable array of unfilled professorships, and with fifteen or twenty annual graduates, stood apart from public affairs, although one of its professors, Dr. Samuel L. Mitchill, gave scientific reputation to the whole State. Like the poet Barlow,

Mitchill was a universal genius, — a chemist, botanist, naturalist, physicist, and politician, who, to use the words of a shrewd observer, supported the Republican party because Jefferson was its leader, and supported Jefferson because he was a philosopher. Another professor of Columbia College, Dr. David Hosack, was as active as Dr. Mitchill in education, although he contented himself with private life, and did not, like Mitchill, reach the dignity of congressman and senator.

Science and art were still less likely to be harmed by a democratic revolution. For scientific work accomplished before 1800 New York might claim to excel New England; but the result was still small. A little botany and mineralogy, a paper on the dispute over yellow fever or vaccination, was the utmost that medicine could show; yet all the science that existed was in the hands of the medical faculty. Botany, chemistry, mineralogy, midwifery, and surgery were so closely allied that the same professor might regard them all as within the range of his instruction; and Dr. Mitchill could have filled in succession, without much difficulty, every chair in Columbia College as well as in the Academy of Fine Arts about to be established. A surgeon was assumed to be an artist. The Capitol at Washington was designed, in rivalry with a French architect, by Dr. William Thornton, an English physician, who in the course of two weeks' study at the Philadelphia Library gained enough knowledge of architecture to draw incorrectly an



exterior elevation. When Thornton was forced to look for some one to help him over his difficulties, Jefferson could find no competent native American, and sent for Latrobe. Jefferson considered himself a better architect than either of them, and had he been a professor of *materia medica* at Columbia College, the public would have accepted his claim as reasonable.

The intellectual and moral character of New York left much to be desired ; but on the other hand, had society adhered stiffly to what New England thought strict morals, the difficulties in the path of national development would have been increased. Innovation was the most useful purpose which New York could serve in human interests, and never was a city better fitted for its work. Although the great tide of prosperity had hardly begun to flow, the political character of city and State was already well defined in 1800 by the election which made Aaron Burr vice-president of the United States, and brought De Witt Clinton into public life as Burr's rival. De Witt Clinton was hardly less responsible than Burr himself for lowering the standard of New York politics, and indirectly that of the nation ; but he was foremost in creating the Erie Canal. Chancellor Livingston was frequently charged with selfishness as great as that of Burr and Clinton ; but he built the first steamboat, and gave immortality to Fulton. Ambrose Spencer's politics were inconsistent enough to destroy the good name of any man in New England ; but he became a chief-

justice of ability and integrity. Edward Livingston was a defaulter under circumstances of culpable carelessness, as the Treasury thought; but Gallatin, who dismissed him from office, lived to see him become the author of a celebrated code of civil law, and of the still more celebrated Nullification Proclamation. John Armstrong's character was so little admired that his own party could with difficulty be induced to give him high office; yet the reader will judge how Armstrong compared in efficiency of public service with the senators who distrusted him.

New York cared but little for the metaphysical subtleties of Massachusetts and Virginia, which convulsed the nation with spasms almost as violent as those that, fourteen centuries before, distracted the Eastern Empire in the effort to establish the double or single nature of Christ. New York was indifferent whether the nature of the United States was single or multiple, whether they were a nation or a league. Leaving this class of questions to other States which were deeply interested in them, New York remained constant to no political theory. There society, in spite of its aristocratic mixture, was democratic by instinct; and in abandoning its alliance with New England in order to join Virginia and elect Jefferson to the Presidency, it pledged itself to principles of no kind, least of all to Virginia doctrines. The Virginians aimed at maintaining a society so simple that purity should suffer no danger, and corruption gain no foothold; and never did America witness a stranger

union than when Jefferson, the representative of ideal purity, allied himself with Aaron Burr, the Livingstons and Clintons, in the expectation of fixing the United States in a career of simplicity and virtue. George Clinton indeed, a States-rights Republican of the old school, understood and believed the Virginia doctrines; but as for Aaron Burr, Edward Livingston, De Witt Clinton, and Ambrose Spencer, — young men whose brains were filled with dreams of a different sort, — what had such energetic democrats to do with the plough, or what share had the austerity of Cato and the simplicity of Ancus Martius in their ideals? The political partnership between the New York Republicans and the Virginians was from the first that of a business firm; and no more curious speculation could have been suggested to the politicians of 1800 than the question whether New York would corrupt Virginia, or Virginia would check the prosperity of New York.

In deciding the issue of this struggle, as in every other issue that concerned the Union, the voice which spoke in most potent tones was that of Pennsylvania. This great State, considering its political importance, was treated with little respect by its neighbors; and yet had New England, New York, and Virginia been swept out of existence in 1800, democracy could have better spared them all than have lost Pennsylvania. The only true democratic community then existing in the eastern States, Pennsylvania was neither picturesque nor troublesome. The State contained no

hierarchy like that of New England ; no great families like those of New York ; no oligarchy like the planters of Virginia and South Carolina. "In Pennsylvania," said Albert Gallatin, "not only we have neither Livingstons nor Rensselaers, but from the suburbs of Philadelphia to the banks of the Ohio I do not know a single family that has any extensive influence. An equal distribution of property has rendered every individual independent, and there is among us true and real equality." This was not all. The value of Pennsylvania to the Union lay not so much in the democratic spirit of society as in the rapidity with which it turned to national objects. Partly for this reason the State made an insignificant figure in politics. As the nation grew, less and less was said in Pennsylvania of interests distinct from those of the Union. Too thoroughly democratic to fear democracy, and too much nationalized to dread nationality, Pennsylvania became the ideal American State, easy, tolerant, and contented. If its soil bred little genius, it bred still less treason. With twenty different religious creeds, its practice could not be narrow, and a strong Quaker element made it humane. If the American Union succeeded, the good sense, liberality, and democratic spirit of Pennsylvania had a right to claim credit for the result ; and Pennsylvanians could afford to leave power and patronage to their neighbors, so long as their own interests were to decide the path of administration.

The people showed little of that acuteness which prevailed to the eastward of the Hudson. Pennsylvania was never smart, yet rarely failed to gain her objects, and never committed serious follies. To politics the Pennsylvanians did not take kindly. Perhaps their democracy was so deep an instinct that they knew not what to do with political power when they gained it; as though political power were aristocratic in its nature, and democratic power a contradiction in terms. On this ground rested the reputation of Albert Gallatin, the only Pennsylvanian who made a mark on the surface of national politics. Gallatin's celebrated financial policy carried into practice the doctrine that the powers of government, being necessarily irresponsible, and therefore hostile to liberty, ought to be exercised only within the narrowest bounds, in order to leave democracy free to develop itself without interference in its true social, intellectual, and economical strength. Unlike Jefferson and the Virginians, Gallatin never hesitated to claim for government all the powers necessary for whatever object was in hand; but he agreed with them in checking the practical use of power, and this he did with a degree of rigor which has been often imitated but never equalled. The Pennsylvanians followed Gallatin's teachings. They indulged in endless factiousness over offices, but they never attempted to govern, and after one brief experience they never rebelled. Thus holding abstract politics at arm's length, they supported the national government with

a sagacious sense that their own interests were those of the United States.

Although the State was held by the New Englanders and Virginians in no high repute for quickness of intellect, Philadelphia in 1800 was still the intellectual centre of the nation. For ten years the city had been the seat of national government, and at the close of that period had gathered a more agreeable society, fashionable, literary, and political, than could be found anywhere, except in a few capital cities of Europe. This Quaker city of an ultra-democratic State startled travellers used to luxury, by its extravagance and display. According to the Duc de Liancourt, writing in 1797, —

“The profusion and luxury of Philadelphia on great days, at the tables of the wealthy, in their equipages, and the dresses of their wives and daughters, are extreme. I have seen balls on the President’s birthday where the splendor of the rooms and the variety and richness of the dresses did not suffer in comparison with Europe; and it must be acknowledged that the beauty of the American ladies has the advantage in the comparison. The young women of Philadelphia are accomplished in different degrees, but beauty is general with them. They want the ease and fashion of French women, but the brilliancy of their complexion is infinitely superior. Even when they grow old they are still handsome; and it would be no exaggeration to say, in the numerous assemblies of Philadelphia it is impossible to meet with what is called a plain woman. As to the young men, they for the most part seem to belong to another species.”



For ten years Philadelphia had attracted nearly all the intelligence and cultivation that could be detached from their native stocks. Stagnation was impossible in this rapid current of men and ideas. The Philadelphia press showed the effect of such unusual movement. There Cobbett vociferated libels against democrats. His career was cut short by a blunder of his own; for he quitted the safe field of politics in order to libel the physicians, and although medical practice was not much better than when it had been satirized by Le Sage some eighty years before, the physicians had not become less sensitive. If ever medical practice deserved to be libelled, the bleeding which was the common treatment not only for fevers but for consumption, and even for old age, warranted all that could be said against it; but Cobbett found to his cost that the Pennsylvanians were glad to bleed, or at least to seize the opportunity for silencing the libeller. In 1800 he returned to England; but the style of political warfare in which he was so great a master was already established in the Philadelphia press. An Irish-American named Duane, who had been driven from England and India for expressing opinions too liberal for the time and place, came to Philadelphia and took charge of the opposition newspaper, the "Aurora," which became in his hands the most energetic and slanderous paper in America. In the small society of the time libels rankled, and Duane rivalled Cobbett in the boldness with which he slandered. Another

point of resemblance existed between the two men. At a later stage in his career Duane, like Cobbett, disregarded friend as well as foe; he then attacked all who offended him, and denounced his party leaders as bitterly as he did his opponents; but down to the year 1800 he reserved his abuse for his enemies, and the "Aurora" was the nearest approach to a modern newspaper to be found in the country.

Judged by the accounts of his more reputable enemies, Duane seemed beneath forbearance; but his sins, gross as they were, found abettors in places where such conduct was less to be excused. He was a scurrilous libeller; but so was Cobbett; so was William Coleman, who in 1801 became editor of the New York "Evening Post" under the eye of Alexander Hamilton; so was the refined Joseph Dennie, who in the same year established at Philadelphia the "Portfolio," a weekly paper devoted to literature, in which for years to come he was to write literary essays, diversified by slander of Jefferson. Perhaps none of these habitual libellers deserved censure so much as Fisher Ames, the idol of respectability, who cheered on his party to vituperate his political opponents. He saw no harm in showing "the knaves," Jefferson and Gallatin, "the cold-thinking villains who lead, 'whose black blood runs temperately bad,' " the motives of "their own base hearts. . . . The vain, the timid, and trimming must be made by examples to see that scorn smites and blasts and withers like lightning the knaves that mislead them."

Little difference could be seen between the two parties in their use of such weapons, except that democrats claimed a right to slander opponents because they were monarchists and aristocrats, while Federalists thought themselves bound to smite and wither with scorn those who, as a class, did not respect established customs.

Of American newspapers there was no end; but the education supposed to have been widely spread by eighteenth-century newspapers was hardly to be distinguished from ignorance. The student of history might search forever these storehouses of political calumny for facts meant to instruct the public in any useful object. A few dozen advertisements of shipping and sales; a marine list; rarely or never a price-list, unless it were European; copious extracts from English newspapers, and long columns of political disquisition,—such matter filled the chief city newspapers, from which the smaller sheets selected what their editors thought fit. Reporters and regular correspondents were unknown. Information of events other than political—the progress of the New York or Philadelphia water-works, of the Middlesex Canal, of Fitch's or Fulton's voyages, or even the commonest details of a Presidential inauguration—could rarely be found in the press. In such progress as newspapers had made Philadelphia took the lead, and in 1800 was at the height of her influence. Not until 1801 did the extreme Federalists set up the “Evening Post” under William Coleman, in New York, where

at about the same time the Clinton interest put an English refugee named Cheetham in charge of their new paper, the "American Citizen and Watchtower," while Burr's friends established the "Morning Chronicle," edited by Dr. Peter Irving. Duane's importance was greatly reduced by this outburst of journalism in New York, and by the rise of the "National Intelligencer" at Washington, semi-official organ of Jefferson's administration. After the year 1800 the "Aurora" languished; but between 1795 and 1800 it was the leading newspaper of the United States, and boasted in 1802 of a circulation of four thousand copies, at least half of which its rivals declared to be imaginary.

Although Philadelphia was the literary as well as the political capital of America, nothing proved the existence of a highly intellectual society. When Joseph Dennie, a graduate of Harvard College, quitted Boston and established his "Portfolio" in Philadelphia in 1801, he complained as bitterly as the Pennsylvanian Clifton against the land "where Genius sickens and where Fancy dies;" but he still thought Philadelphia more tolerable than any other city in the United States. With a little band of literary friends he passed his days in defying the indifference of his countrymen. "In the society of Mr. Dennie and his friends at Philadelphia I passed the few agreeable moments which my tour through the States afforded me," wrote in 1804 the British poet whom all the world united in calling by the familiar name

of Tom Moore. "If I did not hate as I ought the rabble to which they are opposed, I could not value as I do the spirit with which they defy it; and in learning from them what Americans *can be*, I but see with the more indignation what Americans *are*."

"Yet, yet forgive me, O you sacred few,  
Whom late by Delaware's green banks I knew;  
Whom, known and loved, through many a social eve  
'T was bliss to live with, and 't was pain to leave.  
Oh, but for *such*, Columbia's days were done!  
Rank without ripeness, quickened without sun,  
Crude at the surface, rotten at the core,  
Her fruits would fall before her spring were o'er."

If Columbia's days were to depend on "*such*," they were scarcely worth prolonging; for Dennie's genius was but the thin echo of an English classicism thin at its best. Yet Moore's words had value, for they gave a lifelike idea of the "sacred few" who sat with him, drinking deep, and reviling America because she could not produce poets like Anacreon and artists like Phidias, and still more because Americans cared little for Addisonian essays. An adventurer called John Davis, who published in London a book of American travels, mentioned in it that he too met the Philadelphia authors. "Dennie passed his mornings in the shop of Mr. Dickens, which I found the rendezvous of the Philadelphia sons of literature, — Blair [Linn], author of a poem called the 'Powers of Genius;' Ingersoll, known by a tragedy of which I forget the title; Stock, celebrated for his dramatic

criticisms." C. J. Ingersoll did in fact print a tragedy called "Edwy and Elgiva," which was acted in 1801, and John Blair Linn's "Powers of Genius" appeared in the same year; but Dennie's group boasted another member more notable than these. Charles Brockden Brown, the first American novelist of merit, was a Philadelphian. Davis called upon Brown. "He occupied a dismal room in a dismal street. I asked him whether a view of Nature would not be more propitious to composition, or whether he should not write with more facility were his window to command the prospect of the Lake of Geneva. 'Sir,' said he, 'good pens, thick paper, and ink well diluted would facilitate my composition more than the prospect of the broadest expanse of water or mountains rising against the clouds.'"

Pennsylvania was largely German and the Moravians were not without learning, yet no trace of German influence showed itself in the educated and literary class. Schiller was at the end of his career, and Goethe at the zenith of his powers; but neither was known in Pennsylvania, unless it might be by translations of the "Robbers" or the "Sorrows of Werther." As for deeper studies, search in America would be useless for what was rare or unknown either in England or France. Kant had closed and Hegel was beginning his labors; but the Western nations knew no more of German thought than of Egyptian hieroglyphics, and America had not yet reached the point of understanding that metaphysics



apart from theology could exist at all. Locke was a college text-book, and possibly a few clergymen had learned to deride the idealism of Berkeley ; but as an interest which concerned life, metaphysics, apart from Calvinism, had no existence in America, and was to have none for another generation. The literary labors of Americans followed easier paths, and such thought as prevailed was confined within a narrow field,—yet within this limit Pennsylvania had something to show, even though it failed to please the taste of Dennie and Moore.

Not far from the city of Philadelphia, on the banks of the Schuylkill, lived William Bartram, the naturalist, whose “Travels” through Florida and the Indian country, published in 1791, were once praised by Coleridge, and deserved reading both for the matter and the style. Not far from Bartram, and his best scholar, was Alexander Wilson, a Scotch poet of more than ordinary merit, gifted with a dogged enthusiasm, which in spite of obstacles gave to America an ornithology more creditable than anything yet accomplished in art or literature. Beyond the mountains, at Pittsburg, another author showed genuine and original qualities. American humor was not then so marked as it afterward became, and good-nature was rarer ; but H. H. Brackenridge set an example of both in a book once universally popular throughout the South and West. A sort of prose “Hudibras,” it had the merit of leaving no sting, for this satire on democracy was written by a democrat

and published in the most democratic community of America. "Modern Chivalry" told the adventures of a militia captain, who riding about the country with a raw Irish servant, found this red-headed, ignorant bog-trotter, this Sancho Panza, a much more popular person than himself, who could only with difficulty be restrained from becoming a clergyman, an Indian chief, a member of the legislature, of the philosophical society, and of Congress. At length his employer got for him the appointment of excise officer in the Alleghanies, and was gratified at seeing him tarred and feathered by his democratic friends. "Modern Chivalry" was not only written in good last-century English, none too refined for its subject, but was more thoroughly American than any book yet published, or to be published until the "Letters of Major Jack Downing" and the "Georgia Scenes" of forty years later. Never known, even by title, in Europe, and little enjoyed in the seaboard States, where bog-trotters and weavers had no such prominence, Judge Brackenridge's book filled the place of Don Quixote on the banks of the Ohio and along the Mississippi.

Another man whose literary merits were not to be overlooked, had drifted to Philadelphia because of its varied attractions. If in the last century America could boast of a poet who shared some of the delicacy if not the grandeur of genius, it was Philip Freneau; whose verses, poured out for the occasion, ran freely, good and bad, but the bad, as was natural, much more

freely than the good. Freneau proved his merit by an experience unique in history. He was twice robbed by the greatest English poets of his day. Among his many slight verses were some pleasing lines called "The Indian Burying Ground": —

"His bow for action ready bent,  
And arrows with a head of stone,  
Can only mean that life is spent,  
And not the finer essence gone.

"By midnight moons, o'er moistening dews,  
In vestments for the chase arrayed,  
The hunter still the deer pursues,  
The hunter and the deer, — a shade."

The last line was taken by the British poet Campbell for his own poem called "O'Connor's Child," and Freneau could afford to forgive the theft which thus called attention to the simple grace of his melody; but although one such compliment might fall to the lot of a common man, only merit could explain a second accident of the same kind. Freneau saw a greater genius than Campbell borrow from his modest capital. No one complained of Walter Scott for taking whatever he liked wherever he chose, to supply that flame of genius which quickened the world; but Freneau had the right to claim that Scott paid him the highest compliment one poet could pay to another. In the Introduction to the third canto of "Marmion" stood and still stands a line taken directly from the verse in Freneau's poem on the Heroes of Eutaw: —

"They took the spear — but left the shield."

All these men — Wilson, Brackenridge, Freneau — were democrats, and came not within the Federalist circle where Moore could alone see a hope for Columbia; yet the names of Federalists also survived in literature. Alexander Graydon's pleasant Memoirs could never lose interest. Many lawyers, clergymen, and physicians left lasting records. Dallas was bringing out his reports; Duponceau was laboring over jurisprudence and languages; William Lewis, William Rawle, and Judge Wilson were high authorities at the bar; Dr. Wistar was giving reputation to the Philadelphia Medical School, and the famous Dr. Physic was beginning to attract patients from far and near as the best surgeon in America. Gilbert Stuart, the best painter in the country, came to Philadelphia, and there painted portraits equal to the best that England or France could produce, — for Reynolds and Gainsborough were dead, and Sir Thomas Lawrence ruled the fashion of the time. If Franklin and Rittenhouse no longer lived to give scientific fame to Philadelphia, their liberal and scientific spirit survived. The reputation of the city was not confined to America, and the accident that made a Philadelphian, Benjamin West, President of the Royal Academy in succession to Sir Joshua Reynolds, was a tacit compliment, not undeserved, to the character of the American metropolis.

There manners were milder and more humane than elsewhere. Societies existed for lessening the hardships of the unfortunate. A society labored for the

abolition of slavery without exciting popular passion, although New York contained more than twenty thousand slaves, and New Jersey more than twelve thousand. A society for alleviating the miseries of prisons watched the progress of experiments in the model jail, which stood alone of its kind in America. Elsewhere the treatment of criminals was such as it had ever been. In Connecticut they were still confined under-ground, in the shafts of an abandoned copper-mine. The Memoirs of Stephen Burroughs gave some idea of the prisons and prison discipline of Massachusetts. The Pennsylvania Hospital was also a model, for it contained a department for the insane, the only one of the sort in America except the Virginia Lunatic Asylum at Williamsburg. Even there the treatment of these beings, whom a later instinct of humanity thought peculiarly worthy of care and lavish expenditure, was harsh enough, — strait-jackets, whippings, chains, and dark-rooms being a part of the prescribed treatment in every such hospital in the world; but where no hospitals existed, as in New England, New York, and elsewhere, the treatment was apt to be far worse. No horror of the Middle Ages wrung the modern conscience with a sense of disgust more acute than was felt in remembering the treatment of the insane even within recent times. Shut in attics or cellars, or in cages outside a house, without warmth, light, or care, they lived in filth, with nourishment such as was thrown to dogs. Philadelphia led the way in humanitarian efforts which relieved

man from incessant contact with these cruel and coarsening associations.

The depth of gratitude due to Pennsylvania as the model democratic society of the world was so great as to risk overestimating what had been actually done. As yet no common-school system existed. Academies and colleges were indifferent. New Jersey was no better provided than Pennsylvania. The Englishman Weld, a keen if not a friendly critic, visited Princeton, —

“A large college,” he said, “held in much repute by the neighboring States. The number of students amounts to upwards of seventy; from their appearance, however, and the course of studies they seem to be engaged in, like all the other American colleges I ever saw, it better deserves the title of a grammar-school than of a college. The library which we were shown is most wretched, consisting for the most part of old theological books not even arranged with any regularity. An orrery contrived by Mr. Rittenhouse stands at one end of the apartment, but it is quite out of repair, as well as a few detached parts of a philosophical apparatus enclosed in the same glass-case. At the opposite end of the room are two small cupboards which are shown as the museum. These contain a couple of small stuffed alligators and a few singular fishes in a miserable state of preservation, from their being repeatedly tossed about.”

Philadelphia made no claim to a wide range of intellectual interests. As late as 1811, Latrobe, by education an architect and by genius an artist, wrote to Volney in France, —



“ Thinking only of the profession and of the affluence which it yields in Europe to all who follow it, you forget that I am an engineer in America ; that I am neither a mechanic nor a merchant, nor a planter of cotton, rice, or tobacco. You forget — for you know it as well as I do — that with us the labor of the hand has precedence over that of the mind ; that an engineer is considered only as an overseer of men who dig, and an architect as one that watches others who hew stone or wood.”

The labor of the hand had precedence over that of the mind throughout the United States. If this was true in the city of Franklin, Rittenhouse, and West, the traveller who wandered farther toward the south felt still more strongly the want of intellectual variety, and found more cause for complaint.

## CHAPTER V.

BETWEEN Pennsylvania and Virginia stretched no barrier of mountains or deserts. Nature seemed to mean that the northern State should reach toward the Chesapeake, and embrace its wide system of coasts and rivers. The Susquehanna, crossing Pennsylvania from north to south, rolled down wealth which in a few years built the city of Baltimore by the surplus of Pennsylvania's resources. Any part of Chesapeake Bay, or of the streams which flowed into it, was more easily accessible to Baltimore than any part of Massachusetts or Pennsylvania to New York. Every geographical reason argued that the Susquehanna, the Potomac, and the James should support one homogeneous people; yet the intellectual difference between Pennsylvania and Virginia was already more sharply marked than that between New England and the Middle States.

The old Virginia society was still erect, priding itself on its resemblance to the society of England, which had produced Hampden and Chatham. The Virginia gentleman, wherever met, was a country gentleman or a lawyer among a society of planters. The absence of city life was the sharpest characteristic of Virginia, even compared with South Carolina.

In the best and greatest of Virginians, the virtues which always stood in most prominence were those of the field and farm,—the simple and straightforward mind, the notions of courage and truth, the absence of mercantile sharpness and quickness, the rusticity and open-handed hospitality, which could exist only where the struggle for life was hardly a struggle at all. No visitor could resist the charm of kindly sympathy which softened the asperities of Virginian ambition. Whether young Albert Gallatin went there, hesitating between Europe and America, or the still younger William Ellery Channing, with all New England on his active conscience, the effect was the same:—

“I blush for my own people,” wrote Channing from Richmond in 1799, “when I compare the selfish prudence of a Yankee with the generous confidence of a Virginian. Here I find great vices, but greater virtues than I left behind me. There is one single trait which attaches me to the people I live with more than all the virtues of New England,—they *love money less* than we do; they are more disinterested; their patriotism is not tied to their purse-strings. Could I only take from the Virginians their sensuality and their slaves, I should think them the greatest people in the world. As it is, with a few great virtues, they have innumerable vices.”

Even forty years afterward, so typical a New Englander as the poet Bryant acknowledged that “whatever may be the comparison in other respects, the South certainly has the advantage over us in point of

manners." Manners were not all their charm; for the Virginians at the close of the eighteenth century were inferior to no class of Americans in the sort of education then supposed to make refinement. The Duc de Liancourt bore witness:—

“In spite of the Virginian love for dissipation, the taste for reading is commoner there among men of the first class than in any other part of America; but the populace is perhaps more ignorant there than elsewhere.”

Those whom Liancourt called “men of the first class” were equal to any standard of excellence known to history. Their range was narrow, but within it they were supreme. The traditions of high breeding were still maintained, and a small England, much as it existed in the time of the Commonwealth, was perpetuated in the Virginia of 1800. Social position was a birthright, not merely of the well born, but of the highly gifted. Nearly all the great lawyers of Virginia were of the same social stock as in New England,—poor and gifted men, welcomed into a landed aristocracy simple in tastes and genial in temper. Chief-Justice Marshall was such a man, commanding respect and regard wherever he was seen,—perhaps most of all from New Englanders, who were least familiar with the type. George Mason was an ideal republican,—a character as strong in its way as Washington or Marshall. George Wythe the Chancellor stood in the same universal esteem; and even his young clerk Henry Clay, “the mill-boy of

the slashes," who had lately left Chancellor Wythe's office to set up one of his own at Lexington in Kentucky, inherited that Virginia geniality which, as it ripened with his years, made him an idol among Northern and Western multitudes who knew neither the source nor secret of his charm. Law and politics were the only objects of Virginian thought; but within these bounds the Virginians achieved triumphs. What could America offer in legal literature that rivalled the judicial opinions of Chief-Justice Marshall? What political essay equalled the severe beauty of George Mason's Virginia Bill of Rights? What single production of an American pen reached the fame of Thomas Jefferson's Declaration of Independence? "The Virginians are the best orators I ever heard," wrote the young Channing; although Patrick Henry, the greatest of them all, was no longer alive.

Every one admitted that Virginia society was ill at ease. In colonial days it rested on a few great props, the strongest being its close connection with England; and after this had been cut away by the Revolutionary War, primogeniture, the Church, exemption of land from seizure for debt, and negro slavery remained to support the oligarchy of planters. The momentum given by the Declaration of Independence enabled Jefferson and George Wythe to sweep primogeniture from the statute book. After an interval of several years, Madison carried the law which severed Church from State. There the movement ended. All the

great Virginians would gladly have gone on, but the current began to flow against them. They suggested a bill for emancipation, but could find no one to father it in the legislature, and they shrank from the storm it would excite.

President Washington, in 1796, in a letter already quoted, admitted that land in Virginia was lower in price than land of the same quality in Pennsylvania. For this inferiority he suggested, among other reasons, the explanation that Pennsylvania had made laws for the gradual abolition of slavery, and he declared nothing more certain than that Virginia must adopt similar laws at a period not remote. Had the Virginians seen a sure prospect that such a step would improve their situation, they would probably have taken it; but the slave-owners were little pleased at the results of reforms already effected, and they were in no humor for abolishing more of their old institutions. The effects of disestablishing the Church were calculated to disgust them with all reform. From early times the colony had been divided into parishes, and each parish owned a church building. The system was the counterpart of that established in New England. The church lands, glebes, and endowments were administered by the clergyman, wardens, and vestry. Good society in Virginia recognized no other religion than was taught in this branch of English episcopacy. "Sure I am of one thing," was the remark in the Virginia legislature of an old-fashioned Federalist, with powdered hair, three-cornered hat,



long queue, and white top-boots, — “Sure I am of one thing, that no *gentleman* would choose any road to heaven but the Episcopal.” Every plantation was attached to a parish, and the earliest associations of every well-bred man and woman in Virginia were connected with the Church service. In spite of all this, no sooner had Madison and his friends taken away the support of the State than the Church perished. They argued that freedom of religion worked well in Pennsylvania, and therefore must succeed in Virginia; but they were wrong. The Virginia gentry stood by and saw their churches closed, the roofs rot, the aisles and pews become a refuge for sheep and foxes, the tombstones of their ancestry built into strange walls or turned into flagging to be worn by the feet of slaves. By the year 1800, Bishop Madison found his diocese left so nearly bare of clergy and communicants that after a few feeble efforts to revive interest he abandoned the struggle, and contented himself with the humbler task of educating boys at the ancient College of William and Mary in the deserted colonial capital of Williamsburg. There the English traveller Weld visited him about the year 1797, and gave a curious picture of his establishment: —

“The Bishop,” he said, “is president of the college, and has apartments in the buildings. Half-a-dozen or more of the students, the eldest about twelve years old, dined at his table one day that I was there. Some were without shoes or stockings, others without coats. During

dinner they constantly rose to help themselves at the sideboard. A couple of dishes of salted meat and some oyster-soup formed the whole of the dinner."

Such a state of society was picturesque, but not encouraging. An aristocracy so lacking in energy and self-confidence was a mere shell, to be crushed, as one might think, by a single vigorous blow. Nevertheless, Jefferson and Madison, after striking it again and again with the full force of Revolutionary violence, were obliged to desist, and turned their reforming axes against the Church and hierarchy of New England. There they could do nothing but good, for the society of New England was sound, whatever became of the Church or of slavery; but in Virginia the gap which divided gentry from populace was enormous; and another gap, which seemed impassable, divided the populace from the slaves. Jefferson's reforms crippled and impoverished the gentry, but did little for the people, and for the slaves nothing.

Nowhere in America existed better human material than in the middle and lower classes of Virginians. As explorers, adventurers, fighters,—wherever courage, activity, and force were wanted,—they had no equals; but they had never known discipline, and were beyond measure jealous of restraint. With all their natural virtues and indefinite capacities for good, they were rough and uneducated to a degree that shocked their own native leaders. Jefferson tried in vain to persuade them that they needed schools. Their character was stereotyped, and development

impossible; for even Jefferson, with all his liberality of ideas, was Virginian enough to discourage the introduction of manufactures and the gathering of masses in cities, without which no new life could grow. Among the common people, intellectual activity was confined to hereditary commonplaces of politics, resting on the axiom that Virginia was the typical society of a future Arcadian America. To escape the tyranny of Cæsar by perpetuating the simple and isolated lives of their fathers was the sum of their political philosophy; to fix upon the national government the stamp of their own idyllic conservatism was the height of their ambition.

Debarred from manufactures, possessed of no shipping, and enjoying no domestic market, Virginian energies necessarily knew no other resource than agriculture. Without church, university, schools, or literature in any form that required or fostered intellectual life, the Virginians concentrated their thoughts almost exclusively upon politics; and this concentration produced a result so distinct and lasting, and in character so respectable, that American history would lose no small part of its interest in losing the Virginia school.

No one denied that Virginia, like Massachusetts, in the War of Independence, believed herself competent to follow independently of other provinces whatever path seemed good. The Constitution of Virginia did not, like that of Massachusetts, authorize the governor to "be the commander-in-chief of the army

and navy," in order "to take and surprise, by all ways and means whatsoever, all and every such person or persons (with their ships, arms, ammunition, and other goods) as shall in a hostile manner invade or attempt the invading, conquering, or annoying this Commonwealth;" but although Massachusetts expressed the power in language more detailed, Virginia held to its essence with equal tenacity. When experience showed the necessity of "creating a more perfect union," none of the great States were unanimous for the change. Massachusetts and New York were with difficulty induced to accept the Constitution of 1787. Their final assent was wrung from them by the influence of the cities and of the commercial class; but Virginia contained no cities and few merchants. The majority by which the State Convention of Virginia, after an obstinate contest, adopted the Constitution, was influenced by pure patriotism as far as any political influence could be called pure; but the popular majority was probably hostile to the Constitution, and certainly remained hostile to the exercise of its powers. From the first the State took an attitude of opposition to the national government, which became more and more decided, until in 1798 it found expression in a formal announcement, through the legislature and governor, that the limit of further obedience was at hand. The General Assembly adopted Resolutions promising support to the government of the United States in all measures warranted by the Constitution, but declaring the pow-

ers of the federal government “no further valid than they are authorized by the grants enumerated in that compact; and that in case of a deliberate, palpable, and dangerous exercise of other powers, not granted by said compact, the States who are parties thereto have the right, and are in duty bound, to interpose, for arresting the progress of the evil and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.”

Acting immediately on this view, the General Assembly did interpose by declaring certain laws, known as the Alien and Sedition Laws, unconstitutional, and by inviting the other States to concur, in confidence “that the necessary and proper measures will be taken by each for co-operating with this State in maintaining unimpaired the authorities, rights, and liberties reserved to the States respectively or to the people.”

These Virginia Resolutions, which were drawn by Madison, seemed strong enough to meet any possible aggression from the national government; but Jefferson, as though not quite satisfied with these, recommended the Kentucky legislature to adopt still stronger. The draft of the Kentucky Resolutions, whether originally composed or only approved by him, representing certainly his own convictions, declared that “where powers are assumed which have not been delegated a nullification of the Act is the rightful remedy,” and “that every State has a natural right, in cases not within the compact, to nullify of

their own authority all assumptions of power by others within their limits." Jefferson did not doubt "that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these acts void and of no force, and will each take measures of its own for providing that neither these acts, nor any others of the federal government not plainly and intentionally authorized by the Constitution, shall be exercised within their respective territories."

In the history of Virginia thought, the personal opinions of Jefferson and Madison were more interesting, if not more important, than the official opinion of State legislatures. Kentucky shrank from using language which seemed unnecessarily violent, but still declared, with all the emphasis needed, that the national government was not "the exclusive or final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers," but that each party had an equal right to judge for itself as to an infraction of the compact, and the proper redress; that in the case of the Alien and Sedition Laws the compact had been infringed, and that these Acts, being unconstitutional and therefore void, "may tend to drive these States into revolution and blood;" finally, the State of Kentucky called for an expression of sentiment from other States, like Virginia not doubting "that the co-States, recurring to their natural right in cases not made federal, will concur in declaring these Acts void and of no force."



These famous Resolutions of Virginia and Kentucky, historically the most interesting of all the intellectual products of the Virginia school, were adopted in 1798 and 1799. In 1800, Jefferson their chief author was chosen President of the United States, and Madison became his Secretary of State. Much discussion then and afterward arose over the Constitutional theory laid down by Virginia and Kentucky, and thus apparently adopted by the Union; but in such cases of disputed powers that theory was soundest which was backed by the strongest force, for the sanction of force was the most necessary part of law. The United States government was at that time powerless to enforce its theories; while, on the other hand, Virginia had all the power necessary for the object desired. The Republican leaders believed that the State was at liberty to withdraw from the Union if it should think that an infraction of the Constitution had taken place; and Jefferson in 1798 preferred to go on by way of Resolution rather than by way of Secession, not because of any doubt as to the right, but because, "if we now reduce our Union to Virginia and North Carolina, immediately the conflict will be established between those two States, and they will end by breaking into their simple units." In other letters he explained that the Kentucky Resolutions were intended "to leave the matter in such a train as that we may not be committed absolutely to push the matter to extremities, and yet may be free to push as far as events will render prudent." Union

was a question of expediency, not of obligation. This was the conviction of the true Virginia school, and of Jefferson's opponents as well as his supporters; of Patrick Henry, as well as John Taylor of Caroline and John Randolph of Roanoke.

The Virginia and Kentucky Resolutions, giving form to ideas that had not till then been so well expressed, left a permanent mark in history, and fixed for an indefinite time the direction and bounds of Virginia politics; but if New England could go no further in the lines of thought pursued by Fisher Ames and Timothy Dwight, Virginia could certainly expect no better results from those defined by Jefferson and Madison. The science of politics, if limited by the Resolutions of Virginia and Kentucky, must degenerate into an enumeration of powers reserved from exercise. Thought could find little room for free development where it confined its action to narrowing its own field.

This tendency of the Virginia school was the more remarkable because it seemed little suited to the tastes and instincts of the two men who gave it expression and guided its course. By common consent Thomas Jefferson was its intellectual leader. According to the admitted standards of greatness, Jefferson was a great man. After all deductions on which his enemies might choose to insist, his character could not be denied elevation, versatility, breadth, insight, and delicacy; but neither as a politician nor as a political philosopher did he seem at ease in the

atmosphere which surrounded him. As a leader of democracy he appeared singularly out of place. As reserved as President Washington in the face of popular familiarities, he never showed himself in crowds. During the last thirty years of his life he was not seen in a Northern city, even during his Presidency ; nor indeed was he seen at all except on horseback, or by his friends and visitors in his own house. With manners apparently popular and informal, he led a life of his own, and allowed few persons to share it. His tastes were for that day excessively refined. His instincts were those of a liberal European nobleman, like the Duc de Liancourt, and he built for himself at Monticello a château above contact with man. The rawness of political life was an incessant torture to him, and personal attacks made him keenly unhappy. His true delight was in an intellectual life of science and art. To read, write, speculate in new lines of thought, to keep abreast of the intellect of Europe, and to feed upon Homer and Horace, were pleasures more to his mind than any to be found in a public assembly. He had some knowledge of mathematics, and a little acquaintance with classical art ; but he fairly revelled in what he believed to be beautiful, and his writings often betrayed subtle feeling for artistic form, — a sure mark of intellectual sensuousness. He shrank from whatever was rough or coarse, and his yearning for sympathy was almost feminine. That such a man should have ventured upon the stormy ocean of politics was surprising, the

more because he was no orator, and owed nothing to any magnetic influence of voice or person. Never effective in debate, for seventeen years before his Presidency he had not appeared in a legislative body except in the chair of the Senate. He felt a nervous horror for the contentiousness of such assemblies, and even among his own friends he sometimes abandoned for the moment his strongest convictions rather than support them by an effort of authority.

If Jefferson appeared ill at ease in the position of a popular leader, he seemed equally awkward in the intellectual restraints of his own political principles. His mind shared little in common with the provincialism on which the Virginia and Kentucky Resolutions were founded. His instincts led him to widen rather than to narrow the bounds of every intellectual exercise; and if vested with political authority, he could no more resist the temptation to stretch his powers than he could abstain from using his mind on any subject merely because he might be drawn upon ground supposed to be dangerous. He was a deist, believing that men could manage their own salvation without the help of a state church. Prone to innovation, he sometimes generalized without careful analysis. He was a theorist, prepared to risk the fate of mankind on the chance of reasoning far from certain in its details. His temperament was sunny and sanguine, and the atrabilious philosophy of New England was intolerable to him. He was curiously vulnerable, for he seldom wrote a page without exposing himself

to attack. He was superficial in his knowledge, and a martyr to the disease of omniscience. Ridicule of his opinions and of himself was an easy task, in which his Federalist opponents delighted, for his English was often confused, his assertions inaccurate, and at times of excitement he was apt to talk with indiscretion; while with all his extraordinary versatility of character and opinions, he seemed during his entire life to breathe with perfect satisfaction nowhere except in the liberal, literary, and scientific air of Paris in 1789.

Jefferson aspired beyond the ambition of a nationality, and embraced in his view the whole future of man. That the United States should become a nation like France, England, or Russia, should conquer the world like Rome, or develop a typical race like the Chinese, was no part of his scheme. He wished to begin a new era. Hoping for a time when the world's ruling interests should cease to be local and should become universal; when questions of boundary and nationality should become insignificant; when armies and navies should be reduced to the work of police, and politics should consist only in non-intervention,—he set himself to the task of governing, with this golden age in view. Few men have dared to legislate as though eternal peace were at hand, in a world torn by wars and convulsions and drowned in blood; but this was what Jefferson aspired to do. Even in such dangers, he believed that Americans might safely set an example which the Christian

world should be led by interest to respect and at length to imitate. As he conceived a true American policy, war was a blunder, an unnecessary risk ; and even in case of robbery and aggression the United States, he believed, had only to stand on the defensive in order to obtain justice in the end. He would not consent to build up a new nationality merely to create more navies and armies, to perpetuate the crimes and follies of Europe ; the central government at Washington should not be permitted to indulge in the miserable ambitions that had made the Old World a hell, and frustrated the hopes of humanity.

With these humanitarian ideas which passed beyond the bounds of nationality, Jefferson held other views which seemed narrower than ordinary provincialism. Cities, manufactures, mines, shipping, and accumulation of capital led, in his opinion, to corruption and tyranny.

“ Generally speaking,” said he, in his only elaborate work, the Notes on Virginia, “ the proportion which the aggregate of the other classes of citizens bears in any State to that of its husbandmen is the proportion of its unsound to its healthy parts, and is a good enough barometer whereby to measure its degree of corruption. . . . Those who labor in the earth are the chosen people of God if ever he had a chosen people, whose breasts he has made his peculiar deposit for substantial and genuine virtue.”

This doctrine was not original with Jefferson, but its application to national affairs on a great scale



was something new in the world, and the theory itself clashed with his intellectual instincts of liberality and innovation.

A school of political thought, starting with postulates like these, was an interesting study, and would have been more interesting had Jefferson's friends undertaken to develop his ideas in the extent he held them. Perhaps this was impossible. At all events, Madison, although author of the Virginia Resolutions, showed little earnestness in carrying out their principles either as a political or as a literary task; and John Taylor of Caroline, the only consistent representative of the school, began his writings only when political power had established precedents inconsistent with their object.

With such simple conceptions as their experience gave them in politics, law, and agriculture, the Virginians appeared to be satisfied; and whether satisfied or not, they were for the time helpless to produce other literature, science, or art. From the three States lying farther south, no greater intellectual variety could be expected. In some respects North Carolina, though modest in ambition and backward in thought, was still the healthiest community south of the Potomac. Neither aristocratic like Virginia and South Carolina, nor turbulent like Georgia, nor troubled by a sense of social importance, but above all thoroughly democratic, North Carolina tolerated more freedom of political action and showed less family and social influence, fewer vested rights in political

power, and less tyranny of slaveholding interests and terrors than were common elsewhere in the South. Neither cultivated nor brilliant in intellect, nor great in thought, industry, energy, or organization, North Carolina was still interesting and respectable. The best qualities of the State were typified in its favorite representative, Nathaniel Macon.

The small society of rice and cotton planters at Charleston, with their cultivated tastes and hospitable habits, delighted in whatever reminded them of European civilization. They were travellers, readers, and scholars; the society of Charleston compared well in refinement with that of any city of its size in the world, and English visitors long thought it the most agreeable in America. In the southern wilderness which stretched from the Appomattox to the St. Mary's, Charleston was the only oasis. The South Carolinians were ambitious for other distinctions than those which could be earned at the bar or on the plantation. From there Washington Allston went to study at Harvard College, and after taking his degree in the same class with young Buckminster, sailed in the same year, 1800, for Europe with his friend Malbone, to learn to express in color and form the grace and dignity of his imagination. In South Carolina were felt the instincts of city life. During two or three weeks of the winter, the succession of dinners, balls, and races at Charleston rivalled the gayety of Philadelphia itself; and although the city was dull during the rest of the year, it was not deserted even in the

heat of summer, for the sea-breeze made it a watering-place, like Boston, and the deadly fevers sure to kill the white man who should pass a night on one bank of the Ashley River were almost unknown on the other. In the summer, therefore, the residents remained or returned; the children got their schooling, and business continued. For this reason South Carolina knew less of the country hospitality which made Virginia famous; city life had the larger share in existence, although in the hot weather torpor and languor took the place of gayety. In certain respects Charleston was more Northern in habits than any town of the North. In other warm countries, the summer evening was commonly the moment when life was best worth living; music, love-making, laughter, and talk turned night into day; but Charleston was Puritanic in discipline. Every night at ten o'clock the slamming of window-blinds and locking of doors warned strangers and visitors to go not only to their houses, but to their beds. The citizens looked with contempt on the gayety of Spanish or Italian temper. Beneath all other thoughts, the care of the huge slave population remained constant. The streets were abandoned at an early hour to the patrol, and no New England village was more silent.

Confident as the Carolinian was in the strength of the slave-system, and careless as he seemed and thought himself to be on that account, the recent fate of St. Domingo gave him cause for constant anxiety; but even without anxiety, he would have been grave.

The gentry of the lower country belonged to the same English class which produced the gentry of Virginia and Massachusetts. The austerity of the Puritan may have been an exaggerated trait, but among the Middletons, Pinckneys, Rutledges, and Lowndeses the seriousness of the original English stock was also not without effect in the habit of their minds. They showed it in their treatment of the slave-system, but equally in their churches and houses, their occupations and prejudices, their races and sports, the character of their entertainments, the books they read, and the talk at their tables. No gentleman belonged to any church but the Anglican, or connected himself with trade. No court departed from the practice and precedents of English law, however anomalous they might be. Before the Revolution large numbers of young men had been educated in England, and their influence was still strong in the society of Charleston. The younger generation inherited similar tastes. Of this class the best-known name which will appear in this narrative was that of William Lowndes; and no better example could be offered of the serious temper which marked Carolinian thought, than was given by the career of this refined and highly educated gentleman, almost the last of his school.

Charleston was more cosmopolitan than any part of Virginia, and enjoyed also a certain literary reputation on account of David Ramsay, whose works were widely read; and of Governor Drayton, whose "Letters written during a Tour through the Northern

and Eastern States," and "View of South Carolina," gave an idea of the author as well as of the countries he described. Charleston also possessed a library of three or four thousand well-selected books, and maintained a well-managed theatre. The churches were almost as strictly attended as those in Boston. The fashionable wine-party was even more common, and perhaps the guests took pride in drinking deeper than they would have been required to do in New York or Philadelphia.

Politics had not mastered the thought of South Carolina so completely as that of Virginia, and the natural instincts of Carolinian society should have led the gentry to make common cause with the gentry of New England and the Middle States against democratic innovations. The conservative side in politics seemed to be that which no Carolinian gentleman could fail to support. The oligarchy of South Carolina, in defiance of democratic principles, held the political power of the State, and its interests could never harmonize with those of a theoretic democracy, or safely consent to trust the national government in the hands of Jefferson and his friends, who had founded their power by breaking down in Virginia an oligarchy closely resembling that of the Carolinian rice-planters. Yet in 1800 enough of these gentlemen, under the lead of Charles Pinckney, deserted their Northern friends, to secure the defeat of the Federalist candidates, and to elect Jefferson as President. For this action, no satisfactory reason was

ever given. Of all States in the Union, South Carolina, under its actual system of politics, was the last which could be suspected of democratic tendencies.

Such want of consistency seemed to show some peculiarity of character. Not every educated and privileged class has sacrificed itself to a social sentiment, least of all without understanding its object. The eccentricity was complicated by another peculiar element of society. In South Carolina the interesting union between English tastes and provincial prejudices, which characterized the wealthy planters of the coast, was made more striking by contrast with the character of the poor and hardy yeomanry of the upper country. The seriousness of Charleston society changed to severity in the mountains. Rude, ignorant, and in some of its habits half barbarous, this population, in the stiffness of its religious and social expression, resembled the New England of a century before rather than the liberality of the Union. Largely settled by Scotch and Irish emigrants, with the rigid Presbyterian doctrine and conservatism of their class, they were democratic in practice beyond all American democrats, and were more conservative in thought than the most aristocratic Europeans. Though sharply divided both socially and by interest from the sea-coast planters, these up-country farmers had one intellectual sympathy with their fellow-citizens in Charleston, — a sympathy resting on their common dislike for change, on the serious element which lay at the root of their common characters ; and this



marriage of two widely divergent minds produced one of the most extraordinary statesmen of America. In the year 1800 John Caldwell Calhoun, a boy of eighteen, went from the upper country to his brother-in-law's academy in Georgia. Grown nearly to manhood without contact with the world, his modes of thought were those of a Connecticut Calvinist; his mind was cold, stern, and metaphysical; but he had the energy and ambition of youth, the political fervor of Jeffersonian democracy, and little sympathy with slavery or slave-owners. At this early age he, like many other Republicans, looked on slavery as a "scaffolding," to be taken down when the building should be complete. A radical democrat, less liberal, less cultivated, and much less genial than Jefferson, Calhoun was the true heir to his intellectual succession; stronger in logic, bolder in action. Upon him was to fall the duty of attempting to find for Carolina an escape from the logical conclusions of those democratic principles which Jefferson in 1800 claimed for his own, but which in the full swing of his power, and to the last day of his life, he shrank from pressing to their results.

Viewed from every side by which it could be approached, the society of South Carolina, more than that of any other portion of the Union, seemed to bristle with contradictions. The elements of intellectual life existed without a sufficient intellectual atmosphere. Society, colonial by origin and dependent by the conditions of its existence, was striving

to exist without external support. Whether it would stand or fall, and whether, either standing or falling, it could contribute any new element to American thought, were riddles which, with so many others, American history was to answer.

## CHAPTER VI.

NEARLY every foreign traveller who visited the United States during these early years, carried away an impression sober if not sad. A thousand miles of desolate and dreary forest, broken here and there by settlements; along the sea-coast a few flourishing towns devoted to commerce; no arts, a provincial literature, a cancerous disease of negro slavery, and differences of political theory fortified within geographical lines, — what could be hoped for such a country except to repeat the story of violence and brutality which the world already knew by heart, until repetition for thousands of years had wearied and sickened mankind? Ages must probably pass before the interior could be thoroughly settled; even Jefferson, usually a sanguine man, talked of a thousand years with acquiescence, and in his first Inaugural Address, at a time when the Mississippi River formed the Western boundary, spoke of the country as having “room enough for our descendants to the hundredth and thousandth generation.” No prudent person dared to act on the certainty that when settled, one government could comprehend the whole; and when the day of separation should arrive, and America should have her Prussia, Austria, and Italy, as she

already had her England, France, and Spain, what else could follow but a return to the old conditions of local jealousies, wars, and corruption which had made a slaughter-house of Europe?

The mass of Americans were sanguine and self-confident, partly by temperament, but partly also by reason of ignorance; for they knew little of the difficulties which surrounded a complex society. The Duc de Liancourt, like many critics, was struck by this trait. Among other instances, he met with one in the person of a Pennsylvania miller, Thomas Lea, "a sound American patriot, persuading himself that nothing good is done, and that no one has any brains, except in America; that the wit, the imagination, the genius of Europe are already in decrepitude;" and the duke added: "This error is to be found in almost all Americans,—legislators, administrators, as well as millers, and is less innocent there." In the year 1796 the House of Representatives debated whether to insert in the Reply to the President's Speech a passing remark that the nation was "the freest and most enlightened in the world,"—a nation as yet in swaddling-clothes, which had neither literature, arts, sciences, nor history; nor even enough nationality to be sure that it was a nation. The moment was peculiarly ill-chosen for such a claim, because Europe was on the verge of an outburst of genius. Goethe and Schiller, Mozart and Haydn, Kant and Fichte, Cavendish and Herschel were making way for Walter Scott, Wordsworth, and

Shelley, Heine and Balzac, Beethoven and Hegel, Oersted and Cuvier, great physicists, biologists, geologists, chemists, mathematicians, metaphysicians, and historians by the score. Turner was painting his earliest landscapes, and Watt completing his latest steam-engine; Napoleon was taking command of the French armies, and Nelson of the English fleets; investigators, reformers, scholars, and philosophers swarmed, and the influence of enlightenment, even amid universal war, was working with an energy such as the world had never before conceived. The idea that Europe was in her decrepitude proved only ignorance and want of enlightenment, if not of freedom, on the part of Americans, who could only excuse their error by pleading that notwithstanding these objections, in matters which for the moment most concerned themselves Europe was a full century behind America. If they were right in thinking that the next necessity of human progress was to lift the average man upon an intellectual and social level with the most favored, they stood at least three generations nearer than Europe to their common goal. The destinies of the United States were certainly staked, without reserve or escape, on the soundness of this doubtful and even improbable principle, ignoring or overthrowing the institutions of church, aristocracy, family, army, and political intervention, which long experience had shown to be needed for the safety of society. Europe might be right in thinking that without such safeguards society must come to an end;

but even Europeans must concede that there was a chance, if no greater than one in a thousand, that America might, at least for a time, succeed. If this stake of temporal and eternal welfare stood on the winning card; if man actually should become more virtuous and enlightened, by mere process of growth, without church or paternal authority; if the average human being could accustom himself to reason with the logical processes of Descartes and Newton! — what then?

Then, no one could deny that the United States would win a stake such as defied mathematics. With all the advantages of science and capital, Europe must be slower than America to reach the common goal. American society might be both sober and sad, but except for negro slavery it was sound and healthy in every part. Stripped for the hardest work, every muscle firm and elastic, every ounce of brain ready for use, and not a trace of superfluous flesh on his nervous and supple body, the American stood in the world a new order of man. From Maine to Florida, society was in this respect the same, and was so organized as to use its human forces with more economy than could be approached by any society of the world elsewhere. Not only were artificial barriers carefully removed, but every influence that could appeal to ordinary ambition was applied. No brain or appetite active enough to be conscious of stimulants could fail to answer the intense incentive. Few human beings, however sluggish, could long resist the



temptation to acquire power ; and the elements of power were to be had in America almost for the asking. Reversing the old-world system, the American stimulant increased in energy as it reached the lowest and most ignorant class, dragging and whirling them upward as in the blast of a furnace. The penniless and homeless Scotch or Irish immigrant was caught and consumed by it ; for every stroke of the axe and the hoe made him a capitalist, and made gentlemen of his children. Wealth was the strongest agent for moving the mass of mankind ; but political power was hardly less tempting to the more intelligent and better-educated swarms of American-born citizens, and the instinct of activity, once created, seemed heritable and permanent in the race.

Compared with this lithe young figure, Europe was actually in decrepitude. Mere class distinctions, the *patois* or dialect of the peasantry, the fixity of residence, the local costumes and habits marking a history that lost itself in the renewal of identical generations, raised from birth barriers which paralyzed half the population. Upon this mass of inert matter rested the Church and the State, holding down activity of thought. Endless wars withdrew many hundred thousand men from production, and changed them into agents of waste ; huge debts, the evidence of past wars and bad government, created interests to support the system and fix its burdens on the laboring class ; courts, with habits of extravagance that shamed common-sense, helped to consume private

economics. All this might have been borne ; but behind this stood aristocracies, sucking their nourishment from industry, producing nothing themselves, employing little or no active capital or intelligent labor, but pressing on the energies and ambition of society with the weight of an incubus. Picturesque and entertaining as these social anomalies were, they were better fitted for the theatre or for a museum of historical costumes than for an active workshop preparing to compete with such machinery as America would soon command. From an economical point of view, they were as incongruous as would have been the appearance of a mediæval knight in helmet and armor, with battle-axe and shield, to run the machinery of Arkwright's cotton-mill ; but besides their bad economy they also tended to prevent the rest of society from gaining a knowledge of its own capacities. In Europe, the conservative habit of mind was fortified behind power. During nearly a century Voltaire himself — the friend of kings, the wit and poet, historian and philosopher of his age — had carried on, in daily terror, in exile and excommunication, a protest against an intellectual despotism contemptible even to its own supporters. Hardly was Voltaire dead, when Priestley, as great a man if not so great a wit, trying to do for England what Voltaire tried to do for France, was mobbed by the people of Birmingham and driven to America. Where Voltaire and Priestley failed, common men could not struggle ; the weight of society stifled their thought. In America

the balance between conservative and liberal forces was close; but in Europe conservatism held the physical power of government. In Boston a young Buckminster might be checked for a time by his father's prayers or commands in entering the path that led toward freer thought; but youth beckoned him on, and every reward that society could offer was dangled before his eyes. In London or Paris, Rome, Madrid, or Vienna, he must have sacrificed the worldly prospects of his life.

Granting that the American people were about to risk their future on a new experiment, they naturally wished to throw aside all burdens of which they could rid themselves. Believing that in the long run interest, not violence, would rule the world, and that the United States must depend for safety and success on the interests they could create, they were tempted to look upon war and preparations for war as the worst of blunders; for they were sure that every dollar capitalized in industry was a means of overthrowing their enemies more effective than a thousand dollars spent on frigates or standing armies. The success of the American system was, from this point of view, a question of economy. If they could relieve themselves from debts, taxes, armies, and government interference with industry, they must succeed in outstripping Europe in economy of production; and Americans were even then partly aware that if their machine were not so weakened by these economies as to break down in the working, it must of ne-

cessity break down every rival. If their theory was sound, when the day of competition should arrive, Europe might choose between American and Chinese institutions, but there would be no middle path; she might become a confederated democracy, or a wreck.

Whether these ideas were sound or weak, they seemed self-evident to those Northern democrats who, like Albert Gallatin, were comparatively free from slave-owning theories, and understood the practical forces of society. If Gallatin wished to reduce the interference of government to a minimum, and cut down expenditures to nothing, he aimed not so much at saving money as at using it with the most certain effect. The revolution of 1800 was in his eyes chiefly political, because it was social; but as a revolution of society, he and his friends hoped to make it the most radical that had occurred since the downfall of the Roman empire. Their ideas were not yet cleared by experience, and were confused by many contradictory prejudices, but wanted neither breadth nor shrewdness.

Many apparent inconsistencies grew from this undeveloped form of American thought, and gave rise to great confusion in the different estimates of American character that were made both at home and abroad.

That Americans should not be liked was natural; but that they should not be understood was more significant by far. After the downfall of the French republic they had no right to expect a kind word

from Europe, and during the next twenty years they rarely received one. The liberal movement of Europe was cowed, and no one dared express democratic sympathies until the Napolconic tempest had passed. With this attitude Americans had no right to find fault, for Europe cared less to injure them than to protect herself. Nevertheless, observant readers could not but feel surprised that none of the numerous Europeans who then wrote or spoke about America seemed to study the subject seriously. The ordinary traveller was apt to be little more reflective than a bee or an ant, but some of these critics possessed powers far from ordinary; yet Talleyrand alone showed that had he but seen America a few years later than he did, he might have suggested some sufficient reason for apparent contradictions that perplexed him in the national character. The other travellers — great and small, from the Duc de Liancourt to Basil Hall, a long and suggestive list — were equally perplexed. They agreed in observing the contradictions, but all, including Talleyrand, saw only sordid motives. Talleyrand expressed extreme astonishment at the apathy of Americans in the face of religious sectarians; but he explained it by assuming that the American ardor of the moment was absorbed in money-making. The explanation was evidently insufficient, for the Americans were capable of feeling and showing excitement, even to their great pecuniary injury, as they frequently proved; but in the foreigner's range of observation, love of

money was the most conspicuous and most common trait of American character. "There is, perhaps, no civilized country in the world," wrote Félix de Beaujour, soon after 1800, "where there is less generosity in the souls, and in the heads fewer of those illusions which make the charm or the consolation of life. Man here weighs everything, calculates everything, and sacrifices everything to his interest." An Englishman named Fearon, in 1818, expressed the same idea with more distinctness: "In going to America, I would say generally, the emigrant must expect to find, not an economical or cleanly people; not a social or generous people; not a people of enlarged ideas; not a people of liberal opinions, or toward whom you can express your thoughts free as air; not a people friendly to the advocates of liberty in Europe; not a people who understand liberty from investigation and principle; not a people who comprehend the meaning of the words 'honor' and 'generosity.'" Such quotations might be multiplied almost without limit. Rapacity was the accepted explanation of American peculiarities; yet every traveller was troubled by inconsistencies that required explanations of a different kind. "It is not in order to hoard that the Americans are rapacious," observed Liancourt as early as 1796. The extravagance, or what economical Europeans thought extravagance, with which American women were allowed and encouraged to spend money, was as notorious in 1790 as a century later; the recklessness with which Americans often risked their



money, and the liberality with which they used it, were marked even then, in comparison with the ordinary European habit. Europeans saw such contradictions, but made no attempt to reconcile them. No foreigner of that day — neither poet, painter, nor philosopher — could detect in American life anything higher than vulgarity ; for it was something beyond the range of their experience, which education and culture had not framed a formula to express. Moore came to Washington, and found there no loftier inspiration than any Federalist rhymester of Dennie's school.

“ Take Christians, Mohawks, democrats and all,  
 From the rude wigwam to the Congress hall, —  
 From man the savage, whether slaved or free,  
 To man the civilized, less tame than he:  
 'T is one dull chaos, one unfertile strife  
 Betwixt half-polished and half-barbarous life ;  
 Where every ill the ancient world can brew  
 Is mixed with every grossness of the new ;  
 Where all corrupts, though little can entice,  
 And nothing 's known of luxury but vice.”

Moore's two small volumes of Epistles, printed in 1807, contained much more so-called poetry of the same tone, — poetry more polished and less respectable than that of Barlow and Dwight ; while, as though to prove that the Old World knew what grossness was, he embalmed in his lines the slanders which the Scotch libeller Callender invented against Jefferson : —

“The weary statesman for repose hath fled  
From halls of council to his negro’s shed ;  
Where, blest, he woos some black Aspasia’s grace,  
And dreams of freedom in his slave’s embrace.”

To leave no doubt of his meaning, he explained in a footnote that his allusion was to the President of the United States ; and yet even Moore, trifler and butterfly as he was, must have seen, if he would, that between the morals of politics and society in America and those then prevailing in Europe, there was no room for comparison, — there was room only for contrast.

Moore was but an echo of fashionable England in his day. He seldom affected moral sublimity ; and had he in his wanderings met a race of embodied angels, he would have sung of them or to them in the slightly erotic notes which were so well received in the society he loved to frequent and flatter. His remarks upon American character betrayed more temper than truth ; but even in this respect he expressed only the common feeling of Europeans, which was echoed by the Federalist society of the United States. Englishmen especially indulged in unbounded invective against the sordid character of American society, and in shaping their national policy on this contempt they carried their theory into practice with so much energy as to produce its own refutation. To their astonishment and anger, a day came when the Americans, in defiance of self-interest and in contradiction of all the qualities ascribed to them, insisted

on declaring war ; and readers of this narrative will be surprised at the cry of incredulity, not unmingled with terror, with which Englishmen started to their feet when they woke from their delusion on seeing what they had been taught to call the meteor flag of England, which had burned terrific at Copenhagen and Trafalgar, suddenly waver and fall on the bloody deck of the "Guerriere." Fearon and Beaujour, with a score of other contemporary critics, could see neither generosity, economy, honor, nor ideas of any kind in the American breast ; yet the obstinate repetition of these denials itself betrayed a lurking fear of the social forces whose strength they were candid enough to record. What was it that, as they complained, turned the European peasant into a new man within half an hour after landing at New York ? Englishmen were never at a loss to understand the poetry of more prosaic emotions. Neither they nor any of their kindred failed in later times to feel the "large excitement" of the country boy, whose "spirit leaped within him to be gone before him," when the lights of London first flared in the distance ; yet none seemed ever to feel the larger excitement of the American immigrant. Among the Englishmen who criticised the United States was one greater than Moore, — one who thought himself at home only in the stern beauty of a moral presence. Of all poets, living or dead, Wordsworth felt most keenly what he called the still, sad music of humanity ; yet the highest conception he could create of America was

not more poetical than that of any Cumberland beggar he might have met in his morning walk : —

“Long-wished-for sight, the Western World appeared ;  
 And when the ship was moored, I leaped ashore  
 Indignantly, — resolved to be a man,  
 Who, having o’er the past no power, would live  
 No longer in subjection to the past,  
 With abject mind — from a tyrannic lord  
 Inviting penance, fruitlessly endured.  
 So, like a fugitive whose feet have cleared  
 Some boundary which his followers may not cross  
 In prosecution of their deadly chase,  
 Respiring, I looked round. How bright the sun,  
 The breeze how soft ! Can anything produced  
 In the Old World compare, thought I, for power  
 And majesty, with this tremendous stream  
 Sprung from the desert ? And behold a city  
 Fresh, youthful, and aspiring ! . . .

Sooth to say,

On nearer view, a motley spectacle  
 Appeared, of high pretensions — unproved  
 But by the obstreperous voice of higher still ;  
 Big passions strutting on a petty stage,  
 Which a detached spectator may regard  
 Not unamused. But ridicule demands  
 Quick change of objects ; and to laugh alone,  
 . . . in the very centre of the crowd  
 To keep the secret of a poignant scorn,

. . . is least fit

For the gross spirit of mankind.”

Thus Wordsworth, although then at his prime, indulging in what sounded like a boast that he alone had felt the sense sublime of something interfused, whose dwelling is the light of setting suns, and the

round ocean, and the living air, and the blue sky, and in the mind of man, — even he, to whose moods the heavy and the weary weight of all this unintelligible world was lightened by his deeper sympathies with nature and the soul, could do no better, when he stood in the face of American democracy, than “keep the secret of a poignant scorn.”

Possibly the view of Wordsworth and Moore, of Weld, Dennie, and Dickens was right. The American democrat possessed little art of expression, and did not watch his own emotions with a view of uttering them either in prose or verse; he never told more of himself than the world might have assumed without listening to him. Only with diffidence could history attribute to such a class of men a wider range of thought or feeling than they themselves cared to proclaim. Yet the difficulty of denying or even ignoring the wider range was still greater, for no one questioned the force or the scope of an emotion which caused the poorest peasant in Europe to see what was invisible to poet and philosopher, — the dim outline of a mountain-summit across the ocean, rising high above the mist and mud of American democracy. As though to call attention to some such difficulty, European and American critics, while affirming that Americans were a race without illusions or enlarged ideas, declared in the same breath that Jefferson was a visionary whose theories would cause the heavens to fall upon them. Year after year, with endless iteration, in every accent of contempt, rage, and despair,

they repeated this charge against Jefferson. Every foreigner and Federalist agreed that he was a man of illusions, dangerous to society and unbounded in power of evil; but if this view of his character was right, the same visionary qualities seemed also to be a national trait, for every one admitted that Jefferson's opinions, in one form or another, were shared by a majority of the American people.

Illustrations might be carried much further, and might be drawn from every social class and from every period in national history. Of all presidents, Abraham Lincoln has been considered the most typical representative of American society, chiefly because his mind, with all its practical qualities, also inclined, in certain directions, to idealism. Lincoln was born in 1809, the moment when American character stood in lowest esteem. Ralph Waldo Emerson, a more distinct idealist, was born in 1803. William Ellery Channing, another idealist, was born in 1780. Men like John Fitch, Oliver Evans, Robert Fulton, Joel Barlow, John Stevens, and Eli Whitney were all classed among visionaries. The whole society of Quakers belonged in the same category. The records of the popular religious sects abounded in examples of idealism and illusion to such an extent that the masses seemed hardly to find comfort or hope in any authority, however old or well established. In religion as in politics, Americans seemed to require a system which gave play to their imagination and their hopes.



Some misunderstanding must always take place when the observer is at cross-purposes with the society he describes. Wordsworth might have convinced himself by a moment's thought that no country could act on the imagination as America acted upon the instincts of the ignorant and poor, without some quality that deserved better treatment than poignant scorn; but perhaps this was only one among innumerable cases in which the unconscious poet breathed an atmosphere which the self-conscious poet could not penetrate. With equal reason he might have taken the opposite view,—that the hard, practical, money-getting American democrat, who had neither generosity nor honor nor imagination, and who inhabited cold shades where fancy sickened and where genius died, was in truth living in a world of dream, and acting a drama more instinct with poetry than all the avatars of the East, walking in gardens of emerald and rubies, in ambition already ruling the world and guiding Nature with a kinder and wiser hand than had ever yet been felt in human history. From this point his critics never approached him,—they stopped at a stone's throw; and at the moment when they declared that the man's mind had no illusions, they added that he was a knave or a lunatic. Even on his practical and sordid side, the American might easily have been represented as a victim to illusion. If the Englishman had lived as the American speculator did,—in the future,—the hyperbole of enthusiasm would have seemed less monstrous. “Look

at my wealth!" cried the American to his foreign visitor. "See these solid mountains of salt and iron, of lead, copper, silver, and gold! See these magnificent cities scattered broadcast to the Pacific! See my cornfields rustling and waving in the summer breeze from ocean to ocean, so far that the sun itself is not high enough to mark where the distant mountains bound my golden seas! Look at this continent of mine, fairest of created worlds, as she lies turning up to the sun's never-failing caress her broad and exuberant breasts, overflowing with milk for her hundred million children! See how she glows with youth, health, and love!" Perhaps it was not altogether unnatural that the foreigner, on being asked to see what needed centuries to produce, should have looked about him with bewilderment and indignation. "Gold! cities! cornfields! continents! Nothing of the sort! I see nothing but tremendous wastes, where sickly men and women are dying of home-sickness or are scalped by savages! mountain-ranges a thousand miles long, with no means of getting to them, and nothing in them when you get there! swamps and forests choked with their own rotten ruins! nor hope of better for a thousand years! Your story is a fraud, and you are a liar and swindler!"

Met in this spirit, the American, half perplexed and half defiant, retaliated by calling his antagonist a fool, and by mimicking his heavy tricks of manner. For himself he cared little, but his dream was his

whole existence. The men who denounced him admitted that they left him in his forest-swamp quaking with fever, but clinging in the delirium of death to the illusions of his dazzled brain. No class of men could be required to support their convictions with a steadier faith, or pay more devotedly with their persons for the mistakes of their judgment. Whether imagination or greed led them to describe more than actually existed, they still saw no more than any inventor or discoverer must have seen in order to give him the energy of success. They said to the rich as to the poor, "Come and share our limitless riches! Come and help us bring to light these unimaginable stores of wealth and power!" The poor came, and from them were seldom heard complaints of deception or delusion. Within a moment, by the mere contact of a moral atmosphere, they saw the gold and jewels, the summer cornfields and the glowing continent. The rich for a long time stood aloof,—they were timid and narrow-minded; but this was not all,—between them and the American democrat was a gulf.

The charge that Americans were too fond of money to win the confidence of Europeans was a curious inconsistency; yet this was a common belief. If the American deluded himself and led others to their death by baseless speculations; if he buried those he loved in a gloomy forest where they quaked and died while he persisted in seeing there a splendid, healthy, and well-built city,—no one could deny that he sac-

rified wife and child to his greed for gain, that the dollar was his god, and a sordid avarice his demon. Yet had this been the whole truth, no European capitalist would have hesitated to make money out of his grave ; for, avarice against avarice, no more sordid or meaner type existed in America than could be shown on every 'Change in Europe. With much more reason Americans might have suspected that in America Englishmen found everywhere a silent influence, which they found nowhere in Europe, and which had nothing to do with avarice or with the dollar, but, on the contrary, seemed likely at any moment to sacrifice the dollar in a cause and for an object so illusory that most Englishmen could not endure to hear it discussed. European travellers who passed through America noticed that everywhere, in the White House at Washington and in log-cabins beyond the Alleghanies, except for a few Federalists, every American, from Jefferson and Gallatin down to the poorest squatter, seemed to nourish an idea that he was doing what he could to overthrow the tyranny which the past had fastened on the human mind. Nothing was easier than to laugh at the ludicrous expressions of this simple-minded conviction, or to cry out against its coarseness, or grow angry with its prejudices ; to see its nobler side, to feel the beatings of a heart underneath the sordid surface of a gross humanity, was not so easy. Europeans seemed seldom or never conscious that the sentiment could possess a noble side, but found only matter for complaint in the remark

that every American democrat believed himself to be working for the overthrow of tyranny, aristocracy, hereditary privilege, and priesthood, wherever they existed. Even where the American did not openly proclaim this conviction in words, he carried so dense an atmosphere of the sentiment with him in his daily life as to give respectable Europeans an uneasy sense of remoteness.

Of all historical problems, the nature of a national character is the most difficult and the most important. Readers will be troubled, at almost every chapter of the coming narrative, by the want of some formula to explain what share the popular imagination bore in the system pursued by government. The acts of the American people during the administrations of Jefferson and Madison were judged at the time by no other test. According as bystanders believed American character to be hard, sordid, and free from illusion, they were severe and even harsh in judgment. This rule guided the governments of England and France. Federalists in the United States, knowing more of the circumstances, often attributed to the democratic instinct a visionary quality which they regarded as sentimentality, and charged with many bad consequences. If their view was correct, history could occupy itself to no better purpose than in ascertaining the nature and force of the quality which was charged with results so serious; but nothing was more elusive than the spirit of American democracy. Jefferson, the literary representa-

tive of the class, spoke chiefly for Virginians, and dreaded so greatly his own reputation as a visionary that he seldom or never uttered his whole thought. Gallatin and Madison were still more cautious. The press in no country could give shape to a mental condition so shadowy. The people themselves, although millions in number, could not have expressed their finer instincts had they tried, and might not have recognized them if expressed by others.

In the early days of colonization, every new settlement represented an idea and proclaimed a mission. Virginia was founded by a great, liberal movement aiming at the spread of English liberty and empire. The Pilgrims of Plymouth, the Puritans of Boston, the Quakers of Pennsylvania, all avowed a moral purpose, and began by making institutions that consciously reflected a moral idea. No such character belonged to the colonization of 1800. From Lake Erie to Florida, in long, unbroken line, pioneers were at work, cutting into the forests with the energy of so many beavers, and with no more express moral purpose than the beavers they drove away. The civilization they carried with them was rarely illumined by an idea; they sought room for no new truth, and aimed neither at creating, like the Puritans, a government of saints, nor, like the Quakers, one of love and peace; they left such experiments behind them, and wrestled only with the hardest problems of frontier life. No wonder that foreign observers, and even the educated, well-to-do Americans of the sea-coast, could



seldom see anything to admire in the ignorance and brutality of frontiersmen, and should declare that virtue and wisdom no longer guided the United States! What they saw was not encouraging. To a new society, ignorant and semi-barbarous, a mass of demagogues insisted on applying every stimulant that could inflame its worst appetites, while at the same instant taking away every influence that had hitherto helped to restrain its passions. Greed for wealth, lust for power, yearning for the blank void of savage freedom such as Indians and wolves delighted in, — these were the fires that flamed under the caldron of American society, in which, as conservatives believed, the old, well-proven, conservative crust of religion, government, family, and even common respect for age, education, and experience was rapidly melting away, and was indeed already broken into fragments, swept about by the seething mass of scum ever rising in greater quantities to the surface.

Against this Federalist and conservative view of democratic tendencies, democrats protested in a thousand forms, but never in any mode of expression which satisfied them all, or explained their whole character. Probably Jefferson came nearest to the mark, for he represented the hopes of science as well as the prejudices of Virginia; but Jefferson's writings may be searched from beginning to end without revealing the whole measure of the man, far less of the movement. Here and there in his letters a suggestion was thrown out, as though by chance, revealing larger

hopes,—as in 1815, at a moment of despondency, he wrote: “I fear from the experience of the last twenty-five years that morals do not of necessity advance hand in hand with the sciences.” In 1800, in the flush of triumph, he believed that his task in the world was to establish a democratic republic, with the sciences for an intellectual field, and physical and moral advancement keeping pace with their advance. Without an excessive introduction of more recent ideas, he might be imagined to define democratic progress, in the somewhat affected precision of his French philosophy: “Progress is either physical or intellectual. If we can bring it about that men are on the average an inch taller in the next generation than in this; if they are an inch larger round the chest; if their brain is an ounce or two heavier, and their life a year or two longer,—that is progress. If fifty years hence the average man shall invariably argue from two ascertained premises where he now jumps to a conclusion from a single supposed revelation,—that is progress! I expect it to be made here, under our democratic stimulants, on a great scale, until every man is potentially an athlete in body and an Aristotle in mind.” To this doctrine the New Englander replied, “What will you do for moral progress?” Every possible answer to this question opened a chasm. No doubt Jefferson held the faith that men would improve morally with their physical and intellectual growth; but he had no idea of any moral improvement other than that which

came by nature. He could not tolerate a priesthood, a state church, or revealed religion. Conservatives, who could tolerate no society without such pillars of order, were, from their point of view, right in answering, "Give us rather the worst despotism of Europe, — there our souls at least may have a chance of salvation!" To their minds vice and virtue were not relative, but fixed terms. The Church was a divine institution. How could a ship hope to reach port when the crew threw overboard sails, spars, and compass, unshipped their rudder, and all the long day thought only of eating and drinking. Nay, even should the new experiment succeed in a worldly sense, what was a man profited if he gained the whole world, and lost his own soul? The Lord God was a jealous God, and visited the sins of the parents upon the children; but what worse sin could be conceived than for a whole nation to join their chief in chanting the strange hymn with which Jefferson, a new false prophet, was deceiving and betraying his people: "It does me no injury for my neighbor to say there are twenty Gods or no God!"

On this ground conservatism took its stand, as it had hitherto done with success in every similar emergency in the world's history, and fixing its eyes on moral standards of its own, refused to deal with the subject as further open to argument. The two parties stood facing opposite ways, and could see no common ground of contact.

Yet even then one part of the American social

system was proving itself to be rich in results. The average American was more intelligent than the average European, and was becoming every year still more active-minded as the new movement of society caught him up and swept him through a life of more varied experiences. On all sides the national mind responded to its stimulants. Deficient as the American was in the machinery of higher instruction; remote, poor; unable by any exertion to acquire the training, the capital, or even the elementary textbooks he needed for a fair development of his natural powers, — his native energy and ambition already responded to the spur applied to them. Some of his triumphs were famous throughout the world; for Benjamin Franklin had raised high the reputation of American printers, and the actual President of the United States, who signed with Franklin the treaty of peace with Great Britain, was the son of a small farmer, and had himself kept a school in his youth. In both these cases social recognition followed success; but the later triumphs of the American mind were becoming more and more popular. John Fitch was not only one of the poorest, but one of the least-educated Yankees who ever made a name; he could never spell with tolerable correctness, and his life ended as it began, — in the lowest social obscurity. Eli Whitney was better educated than Fitch, but had neither wealth, social influence, nor patron to back his ingenuity. In the year 1800 Eli Terry, another Connecticut Yankee of the same class, took into his

employ two young men to help him make wooden clocks, and this was the capital on which the greatest clock-manufactory in the world began its operations. In 1797 Asa Whittemore, a Massachusetts Yankee, invented a machine to make cards for carding wool, which "operated as if it had a soul," and became the foundation for a hundred subsequent patents. In 1790 Jacob Perkins, of Newburyport, invented a machine capable of cutting and turning out two hundred thousand nails a day; and then invented a process for transferring engraving from a very small steel cylinder to copper, which revolutionized cotton-printing. The British traveller Weld, passing through Wilmington, stopped, as Liancourt had done before him, to see the great flour-mills on the Brandywine. "The improvements," he said, "which have been made in the machinery of the flour-mills in America are very great. The chief of these consist in a new application of the screw, and the introduction of what are called elevators, the idea of which was evidently borrowed from the chain-pump." This was the invention of Oliver Evans, a native of Delaware, whose parents were in very humble life, but who was himself, in spite of every disadvantage, an inventive genius of the first order. Robert Fulton, who in 1800 was in Paris with Joel Barlow, sprang from the same source in Pennsylvania. John Stevens, a native of New York, belonged to a more favored class, but followed the same impulses. All these men were the outcome of typical American society, and all their

inventions transmuted the democratic instinct into a practical and tangible shape. Who would undertake to say that there was a limit to the fecundity of this teeming source? Who that saw only the narrow, practical, money-getting nature of these devices could venture to assert that as they wrought their end and raised the standard of millions, they would not also raise the creative power of those millions to a higher plane? If the priests and barons who set their names to Magna Charta had been told that in a few centuries every swine-herd and cobbler's apprentice would write and read with an ease such as few kings could then command, and reason with better logic than any university could then practise, the priest and baron would have been more incredulous than any man who was told in 1800 that within another five centuries the ploughboy would go a-field whistling a sonata of Beethoven, and figure out in quaternions the relation of his furrows. The American democrat knew so little of art that among his popular illusions he could not then nourish artistic ambition; but leaders like Jefferson, Gallatin, and Barlow might without extravagance count upon a coming time when diffused ease and education should bring the masses into familiar contact with higher forms of human achievement, and their vast creative power, turned toward a nobler culture, might rise to the level of that democratic genius which found expression in the Parthenon; might revel in the delights of a new Buonarotti and a richer Titian; might create for



five hundred million people the America of thought and art which alone could satisfy their omnivorous ambition.

Whether the illusions, so often affirmed and so often denied to the American people, took such forms or not, these were in effect the problems that lay before American society: Could it transmute its social power into the higher forms of thought? Could it provide for the moral and intellectual needs of mankind? Could it take permanent political shape? Could it give new life to religion and art? Could it create and maintain in the mass of mankind those habits of mind which had hitherto belonged to men of science alone? Could it physically develop the convolutions of the human brain? Could it produce, or was it compatible with, the differentiation of a higher variety of the human race? Nothing less than this was necessary for its complete success.

## CHAPTER VII.

THE man who mounted the steps of the Capitol, March 4, 1801, to claim the place of an equal between Pitt and Bonaparte, possessed a character which showed itself in acts; but person and manner can be known only by contemporaries, and the liveliest description was worth less than a moment of personal contact. Jefferson was very tall, six feet two-and-a-half inches in height; sandy-complexioned; shy in manner, seeming cold; awkward in attitude, and with little in his bearing that suggested command. Senator Maclay of Pennsylvania described him in 1790, when he had returned from France to become Secretary of State, and appeared before a Committee of the Senate to answer questions about foreign relations.

“Jefferson is a slender man,” wrote the senator;<sup>1</sup> “has rather the air of stiffness in his manner. His clothes seem too small for him. He sits in a lounging manner, on one hip commonly, and with one of his shoulders elevated much above the other. His face has a sunny aspect. His whole figure has a loose, shackling air. He had a rambling, vacant look, and nothing of

<sup>1</sup> Sketches of Debate in the First Senate, by William Maclay, p. 212.

that firm collected deportment which I expected would dignify the presence of a secretary or minister. I looked for gravity, but a laxity of manner seemed shed about him. He spoke almost without ceasing; but even his discourse partook of his personal demeanor. It was loose and rambling; and yet he scattered information wherever he went, and some even brilliant sentiments sparkled from him."

Maclay was one of the earliest members of the Republican party, and his description was not unfriendly. Augustus Foster, Secretary of the British Legation, described Jefferson as he appeared in 1804:<sup>1</sup>—

"He was a tall man, with a very red freckled face, and gray neglected hair; his manners good-natured, frank, and rather friendly, though he had somewhat of a cynical expression of countenance. He wore a blue coat, a thick gray-colored hairy waistcoat, with a red under-waistcoat lapped over it, green velveteen breeches with pearl buttons, yarn stockings, and slippers down at the heels,—his appearance being very much like that of a tall, large-boned farmer."

In the middle of the seventeenth century the celebrated Cardinal de Retz formed a judgment of the newly-elected Pope from his remark, at a moment when minds were absorbed in his election, that he had for two years used the same pen. "It is only a trifle," added De Retz, "but I have often observed that the smallest things are sometimes better marks

<sup>1</sup> The Quarterly Review (London, 1841), p. 24.

than the greatest." Perhaps dress could never be considered a trifle. One of the greatest of modern writers first made himself famous by declaring that society was founded upon *cloth*; and Jefferson, at moments of some interest in his career as President, seemed to regard his peculiar style of dress as a matter of political importance, while the Federalist newspapers never ceased ridiculing the corduroy small-clothes, red-plush waistcoat, and sharp-toed boots with which he expressed his contempt for fashion.

For eight years this tall, loosely built, somewhat stiff figure, in red waistcoat and yarn stockings, slippers down at the heel, and clothes that seemed too small for him, may be imagined as Senator Maclay described him, sitting on one hip, with one shoulder high above the other, talking almost without ceasing to his visitors at the White House. His skin was thin, peeling from his face on exposure to the sun, and giving it a tettered appearance. This sandy face, with hazel eyes and sunny aspect; this loose, shackling person; this rambling and often brilliant conversation, belonged to the controlling influences of American history, more necessary to the story than three-fourths of the official papers, which only hid the truth. Jefferson's personality during these eight years appeared to be the government, and impressed itself, like that of Bonaparte, although by a different process, on the mind of the nation. In the village simplicity of Washington he was more than a king,

for he was alone in social as well as in political pre-eminence. Except the British Legation, no house in Washington was open to general society; the whole mass of politicians, even the Federalists, were dependent on Jefferson and "The Palace" for amusement; and if they refused to go there, they "lived like bears, brutalized and stupefied."<sup>1</sup>

Jefferson showed his powers at their best in his own house, where among friends as genial and cheerful as himself his ideas could flow freely, and could be discussed with sympathy. Such were the men with whom he surrounded himself by choice, and none but such were invited to enter his Cabinet. First and oldest of his political associates was James Madison, about to become Secretary of State, whose character also described itself, and whose personality was as distinct as that of his chief. A small man, quiet, somewhat precise in manner, pleasant, fond of conversation, with a certain mixture of ease and dignity in his address, Madison had not so much as Jefferson of the commanding attitude which imposed respect on the world. "He has much more the appearance of what I have imagined a Roman cardinal to be," wrote Senator Mills of Massachusetts in 1815.<sup>2</sup> An imposing presence had much to do with political influence, and Madison labored under serious disadvantage in the dryness of his personality. Political

<sup>1</sup> The Quarterly Review (London, 1841), p. 23.

<sup>2</sup> Massachusetts Historical Society's Proceedings, vol. xix. 1881-1882.

opponents of course made fun of him. "As to Jemmy Madison,—oh, poor Jemmy!—he is but a withered little apple-john," wrote Washington Irving in 1812, instinctively applying the Knickerbocker view of history to national concerns.

"In his dress," said one who knew him,<sup>1</sup> "he was not at all eccentric or given to dandyism, but always appeared neat and genteel, and in the costume of a well-bred and tasty old-school gentleman. I have heard in early life he sometimes wore light-colored clothes; but from the time I first knew him . . . never any other color than black, his coat being cut in what is termed dress-fashion; his breeches short, with buckles at the knees, black silk stockings, and shoes with strings, or long fair top-boots when out in cold weather, or when he rode on horseback, of which he was fond. . . . He wore powder on his hair, which was dressed full over the ears, tied behind, and brought to a point above the forehead, to cover in some degree his baldness, as may be noticed in all the likenesses taken of him."

Madison had a sense of humor, felt in his conversation, and detected in the demure cast of his flexile lips, but leaving no trace in his published writings. Small in stature, in deportment modest to the point of sensitive reserve, in address simple and pleasing, in feature rather thoughtful and benevolent than strong, he was such a man as Jefferson, who so much disliked contentious and self-asserting manners, loved

<sup>1</sup> Grigsby's Convention of 1776, p. 85.



to keep by his side. Sir Augustus Foster liked Mr. Madison, although in 1812 Madison sent him out of the country:—

“ I thought Mr. Jefferson more of a statesman and man of the world than Mr. Madison, who was rather too much the disputatious pleader; yet the latter was better informed, and moreover a social, jovial, and good-humored companion, full of anecdote, sometimes rather of a loose description, but oftener of a political and historical interest. He was a little man with small features, rather wizened when I saw him, but occasionally lit up with a good-natured smile. He wore a black coat, stockings with shoes buckled, and had his hair powdered, with a tail.”

The third aristocrat in this democratic triumvirate was Albert Gallatin, marked by circumstances even more than by the President's choice for the post of Secretary of the Treasury. Like the President and the Secretary of State, Gallatin was born and bred a gentleman; in person and manners he was well fitted for the cabinet-table over which Jefferson presided. Gallatin possessed the personal force which was somewhat lacking in his two friends. His appearance impressed by-standers with a sense of strength. His complexion was dark; his eyes were hazel and full of expression; his hair black, and like Madison he was becoming bald. From long experience, at first among the democrats of western Pennsylvania, and afterward as a leader in the House of Representatives, he had lost all shyness in dealing with men. His long

prominent nose and lofty forehead showed character, and his eyes expressed humor. A slight foreign accent betrayed his Genevan origin. Gallatin was also one of the best talkers in America, and perhaps the best-informed man in the country; for his laborious mind had studied America with infinite care, and he retained so much knowledge of European affairs as to fit him equally for the State Department or the Treasury. Three more agreeable men than Jefferson, Madison, and Gallatin were never collected round the dinner-table of the White House; and their difference in age was enough to add zest to their friendship; for Jefferson was born in 1743, Madison in 1751, and Gallatin in 1761. While the President was nearly sixty years old, his Secretary of the Treasury had the energy and liberality of forty.

Jefferson was the first President inaugurated at Washington, and the ceremony, necessarily simple, was made still simpler for political reasons. The retiring President was not present at the installation of his successor. In Jefferson's eyes a revolution had taken place as vast as that of 1776; and if this was his belief, perhaps the late President was wise to retire from a stage where everything was arranged to point a censure upon his principles, and where he would have seemed, in his successor's opinion, as little in place as George III. would have appeared at the installation of President Washington. The collapse of government which marked the last weeks of February, 1801, had been such as to leave of the

old Cabinet only Samuel Dexter of Massachusetts, the Secretary of the Treasury, and Benjamin Stoddert of Maryland, the Secretary of the Navy, still in office. John Marshall, the late Secretary of State, had been appointed, six weeks before, Chief-Justice of the Supreme Court.

In this first appearance of John Marshall as Chief-Justice, to administer the oath of office, lay the dramatic climax of the inauguration. The retiring President, acting for what he supposed to be the best interests of the country, by one of his last acts of power, deliberately intended to perpetuate the principles of his administration, placed at the head of the judiciary, for life, a man as obnoxious to Jefferson as the bitterest New England Calvinist could have been; for he belonged to that class of conservative Virginians whose devotion to President Washington, and whose education in the common law, caused them to hold Jefferson and his theories in antipathy. The new President and his two Secretaries were political philanthropists, bent on restricting the powers of the national government in the interests of human liberty. The Chief-Justice, a man who in grasp of mind and steadiness of purpose had no superior, perhaps no equal, was bent on enlarging the powers of government in the interests of justice and nationality. As they stood face to face on this threshold of their power, each could foresee that the contest between them would end only with life.

If Jefferson and his two friends were the most

aristocratic of democrats, John Marshall was of all aristocrats the most democratic in manners and appearance.

“A tall, slender figure,” wrote Joseph Story in 1808,<sup>1</sup> “not graceful or imposing, but erect and steady. His hair is black, his eyes small and twinkling, his forehead rather low; but his features are in general harmonious. His manners are plain yet dignified, and an unaffected modesty diffuses itself through all his actions. His dress is very simple yet neat; his language chaste, but hardly elegant; it does not flow rapidly, but it seldom wants precision. In conversation he is quite familiar, but is occasionally embarrassed by a hesitancy and drawling. . . . I love his laugh, — it is too hearty for an intriguer; and his good temper and unwearied patience are equally agreeable on the bench and in the study.”

The unaffected simplicity of Marshall's life was delightful to all who knew him, for it sprang from the simplicity of his mind. Never self-conscious, his dignity was never affected by his situation. Bishop Meade,<sup>2</sup> who was proud of the Chief-Justice as one of his flock, being in a street near Marshall's house one morning between daybreak and sunrise, met the Chief-Justice on horseback, with a bag of clover-seed lying before him, which he was carrying to his little farm at seed-time. Simple as American life was, his habits were remarkable for modest plainness; and only the character of his mind, which seemed to have

<sup>1</sup> Life of Story, i. 166.

<sup>2</sup> Old Churches of Virginia, ii. 222.

no flaw, made his influence irresistible upon all who were brought within its reach.

Nevertheless this great man nourished one weakness. Pure in life; broad in mind, and the despair of bench and bar for the unswerving certainty of his legal method; almost idolized by those who stood nearest him, and loving warmly in return,—this excellent and amiable man clung to one rooted prejudice: he detested Thomas Jefferson. He regarded with quiet, unspoken, but immovable antipathy the character and doings of the philosopher standing before him, about to take the oath to preserve, protect, and defend the Constitution. No argument or entreaty affected his conviction that Jefferson was not an honest man. “By weakening the office of President he will increase his personal power,” were Marshall’s words, written at this time;<sup>1</sup> “the morals of the author of the letter to Mazzei cannot be pure.” Jefferson in return regarded Marshall with a repugnance tinged by a shade of some deeper feeling, almost akin to fear. “The judge’s inveteracy is profound,” he once wrote,<sup>2</sup> “and his mind of that gloomy malignity which will never let him forego the opportunity of satiating it on a victim.”

Another person, with individuality not less marked, took the oath of office the same day. When the Sen-

<sup>1</sup> Marshall to Hamilton, Jan. 1, 1801; Hamilton’s Works, vi. 502.

<sup>2</sup> Jefferson to Gallatin, Sept. 27, 1810; Gallatin’s Writings, i. 492.

ate met at ten o'clock on the morning of March 4, 1801, Aaron Burr stood at the desk, and having duly sworn to support the Constitution, took his seat in the chair as Vice-President. This quiet, gentlemanly, and rather dignified figure, hardly taller than Madison, and dressed in much the same manner, impressed with favor all who first met him. An aristocrat imbued in the morality of Lord Chesterfield and Napoleon Bonaparte, Colonel Burr was the chosen head of Northern democracy, idol of the wards of New York city, and aspirant to the highest offices he could reach by means legal or beyond the law; for as he pleased himself with saying, after the manner of the First Consul of the French Republic, "Great souls care little for small morals." Among the other party leaders who have been mentioned,—Jefferson, Madison, Gallatin, Marshall,—not one was dishonest. The exaggerations or equivocations that Jefferson allowed himself, which led to the deep-rooted conviction of Marshall that he did not tell the truth and must therefore be dangerous, amounted to nothing when compared with the dishonesty of a corrupt man. Had the worst political charges against Jefferson been true, he would not have been necessarily corrupt. The self-deception inherent in every struggle for personal power was not the kind of immorality which characterized Colonel Burr. Jefferson, if his enemies were to be believed, might occasionally make misstatements of fact; yet he was true to the faith of his life, and would rather have abdi-



cated his office and foregone his honors than have compassed even an imaginary wrong against the principles he professed. His life, both private and public, was pure. His associates, like Madison, Gallatin, and Monroe, were men upon whose reputations no breath of scandal rested. The standard of morality at Washington, both in private society and in politics, was respectable. For this reason Colonel Burr was a new power in the government; for being in public and in private life an adventurer of the same school as scores who were then seeking fortune in the antechambers of Bonaparte and Pitt, he became a loadstone for every other adventurer who frequented New York or whom the chances of politics might throw into office. The Vice-President wielded power, for he was the certain centre of corruption.

Thus when the doors of the Senate chamber were thrown open, and the new President of the United States appeared on the threshold; when the Vice-President rose from his chair, and Jefferson sat down in it, with Aaron Burr on his right hand and John Marshall on his left, the assembled senators looked up at three men who profoundly disliked and distrusted each other.

John Davis, one of many Englishmen who were allowed by Burr to attach themselves to him on the chance of some future benefit to be derived from them, asserted in a book of American travels published in London two years afterward, that he was present at the inauguration, and that Jefferson rode

on horseback to the Capitol, and after hitching his horse to the palings, went in to take the oath. This story, being spread by the Federalist newspapers, was accepted by the Republicans and became a legend of the Capitol. In fact Davis was not then at Washington, and his story was untrue. Afterward as President, Jefferson was in the habit of going on horseback, rather than in a carriage, wherever business called him, and the Federalists found fault with him for doing so. "He makes it a point," they declared,<sup>1</sup> "when he has occasion to visit the Capitol to meet the representatives of the nation on public business, to go on a single horse, which he leads into the shed and hitches to a peg." Davis wished to write a book that should amuse Englishmen, and in order to give an air of truth to invention, he added that he was himself present at the ceremony. Jefferson was then living as Vice-President at Conrad's boarding-house, within a stone's throw of the Capitol. He did not mount his horse only to ride across the square and dismount in a crowd of observers. Doubtless he wished to offer an example of republican simplicity, and he was not unwilling to annoy his opponents; but the ceremony was conducted with proper form.

Edward Thornton, then in charge of the British Legation at Washington, wrote to Lord Grenville, then Foreign Secretary in Pitt's administration, a despatch enclosing the new President's Inaugural

<sup>1</sup> Evening Post, April 20, 1802.

Address, with comments upon its democratic tendencies; and after a few remarks on this subject, he added:<sup>1</sup>—

“The same republican spirit which runs through this performance, and which in many passages discovers some bitterness through all the sentiments of conciliation and philanthropy with which it is overcharged, Mr. Jefferson affected to display in performing the customary ceremonies. He came from his own lodgings to the House where the Congress convenes, and which goes by the name of the Capitol, on foot, in his ordinary dress, escorted by a body of militia artillery from the neighboring State, and accompanied by the Secretaries of the Navy and the Treasury, and a number of his political friends in the House of Representatives. He was received by Mr. Burr, the Vice-President of the United States, who arrived a day or two ago at the seat of government, and who was previously admitted this morning to the chair of the Senate; and was afterward complimented at his own lodgings by the very few foreign agents who reside at this place, by the members of Congress, and other public officials.”

Only the north wing of the Capitol had then been so far completed as to be occupied by the Senate, the courts, and the small library of Congress. The centre rose not much above its foundations; and the south wing, some twenty feet in height, contained a temporary oval brick building, commonly called the “Oven,” in which the House of Representatives sat

<sup>1</sup> Thornton to Grenville, March 4, 1801; MSS. British Archives

in some peril of their lives, for had not the walls been strongly shored up from without, the structure would have crumbled to pieces. Into the north wing the new President went, accompanied by the only remaining secretaries, Dexter and Stoddert, and by his friends from the House. Received by Vice-President Burr, and seated in the chair between Burr and Marshall, after a short pause Jefferson rose, and in a somewhat inaudible voice began his Inaugural Address.

Time, which has laid its chastening hand on many reputations, and has given to many once famous formulas a meaning unsuspected by their authors, has not altogether spared Jefferson's first Inaugural Address, although it was for a long time almost as well known as the Declaration of Independence; yet this Address was one of the few State Papers which should have lost little of its interest by age. As the starting-point of a powerful political party, the first Inaugural was a standard by which future movements were measured, and it went out of fashion only when its principles were universally accepted or thrown aside. Even as a literary work, it possessed a certain charm of style peculiar to Jefferson, a flavor of Virginia thought and manners, a Jeffersonian ideality calculated to please the ear of later generations forced to task their utmost powers in order to carry the complex trains of their thought.

The chief object of the Address was to quiet the passions which had been raised by the violent agita-

tion of the past eight years. Every interest of the new Administration required that the extreme Federalists should be disarmed. Their temper was such as to endanger both Administration and Union; and their power was still formidable, for they controlled New England and contested New York. To them, Jefferson turned:—

“Let us unite with one heart and one mind,” he entreated; “let us restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things. And let us reflect, that, having banished from our land that religious intolerance under which mankind so long bled and suffered, we have yet gained little if we countenance a political intolerance as despotic, as wicked, and capable of as bitter and bloody persecutions. During the throes and convulsions of the ancient world, during the agonizing spasms of infuriated man, seeking through blood and slaughter his long-lost liberty, it was not wonderful that the agitation of the billows should reach even this distant and peaceful shore; that this should be more felt and feared by some than by others; that this should divide opinions as to measures of safety. But every difference of opinion is not a difference of principle. We are all Republicans, we are all Federalists.”

The Federalist newspapers never ceased laughing at the “spasms” so suddenly converted into “billows,” and at the orthodoxy of Jefferson’s Federalism; but perhaps his chief fault was to belittle the revolution which had taken place. In no party sense was it

true that all were Republicans or all Federalists. As will appear, Jefferson himself was far from meaning what he seemed to say. He wished to soothe the great body of his opponents, and if possible to win them over; but he had no idea of harmony or affection other than that which was to spring from his own further triumph; and in representing that he was in any sense a Federalist, he did himself a wrong.

“I know, indeed,” he continued, “that some honest men fear that a republican government cannot be strong; that this government is not strong enough. But would the honest patriot, in the full tide of successful experiment, abandon a government which has so far kept us free and firm, on the theoretic and visionary fear that this government, the world’s best hope, may by possibility want energy to preserve itself? I trust not. I believe this, on the contrary, the strongest government on earth. I believe it is the only one where every man, at the call of the laws, would fly to the standard of the law, and would meet invasions of the public order as his own personal concern. Sometimes it is said that man cannot be trusted with the government of himself. Can he then be trusted with the government of others? Or have we found angels in the forms of kings to govern him? Let history answer this question!”

That the government, the world’s best hope, had hitherto kept the country free and firm, in the full tide of successful experiment, was a startling compliment to the Federalist party, coming as it did from a man who had not been used to compliment



his political opponents ; but Federalists, on the other hand, might doubt whether this government would continue to answer the same purpose when administered for no other avowed object than to curtail its powers. Clearly, Jefferson credited government with strength which belonged to society ; and if he meant to practise upon this idea, by taking the tone of “ the strongest government on earth ” in the face of Bonaparte and Pitt, whose governments were strong in a different sense, he might properly have developed this idea at more length, for it was likely to prove deeply interesting. Moreover, history, if asked, must at that day have answered that no form of government, whether theocratic, autocratic, aristocratic, democratic, or mixed, had ever in Western civilization lasted long, without change or need of change. History was not the witness to which Republicans could with entire confidence appeal, even against kings.

The Address next enumerated the advantages which America enjoyed, and those which remained to be acquired : —

“ With all these blessings, what more is necessary to make us a happy and prosperous people? Still one thing more, fellow-citizens, — a wise and frugal government, which shall restrain men from injuring one another, which shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government, and this is necessary to close the circle of our felicities.”

A government restricted to keeping the peace, which should raise no taxes except for that purpose, seemed to be simply a judicature and a police. Jefferson gave no development to the idea further than to define its essential principles, and those which were to guide his Administration. Except the Kentucky and Virginia Resolutions of 1798, this short passage was the only official gloss ever given to the Constitution by the Republican party; and for this reason students of American history who would understand the course of American thought should constantly carry in mind not only the Constitutions of 1781 and of 1787, but also the Virginia and Kentucky Resolutions, and the following paragraph of Jefferson's first Inaugural Address: —

“I will compress them,” said the President, “within the narrowest compass they will bear, stating the general principle, but not all its limitations. Equal and exact justice to all men, of whatever state or persuasion, religious or political; peace, commerce, and honest friendship with all nations, entangling alliances with none; the support of the State governments in all their rights, as the most competent administrations for our domestic concerns and the surest bulwarks against anti-republican tendencies; the preservation of the general government in its whole Constitutional vigor, as the sheet-anchor of our peace at home and safety abroad; a jealous care of the right of election by the People, — a mild and safe corrective of abuses which are lopped by the sword of revolution where peaceable remedies are unprovided; absolute acquiescence in the decisions of the majority, —

the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism ; a well-disciplined militia, — our best reliance in peace and for the first moments of war, till regulars may relieve them ; the supremacy of the civil over the military authority ; economy in the public expense, that labor may be lightly burdened ; the honest payment of our debts, and sacred preservation of the public faith ; encouragement of agriculture, and of commerce as its handmaid ; the diffusion of information, and arraignment of all abuses at the bar of public reason ; freedom of religion, freedom of the press, and freedom of person under the protection of the *habeas corpus* ; and trial by juries impartially selected ; — these principles form the bright constellation which has gone before us and guided our steps through an age of revolution and reformation. The wisdom of our sages and the blood of our heroes have been devoted to their attainment ; they should be the creed of our political faith, the text of civic instruction, the touchstone by which to try the services of those we trust ; and should we wander from them in moments of error or alarm, let us hasten to retrace our steps and to regain the road which alone leads to peace, liberty, and safety.”

From the metaphors in which these principles appeared as a constellation, a creed, a text, a touchstone, and a road, the world learned that they had already guided the American people through an age of revolution. In fact, they were mainly the principles of President Washington, and had they been announced by a Federalist President, would have created little remonstrance or surprise. In Jefferson's

mouth they sounded less familiar, and certain phrases seemed even out of place.

Among the cardinal points of republicanism thus proclaimed to the world was one in particular, which as a maxim of government seemed to contradict cherished convictions and the fixed practice of the Republican party. "Absolute acquiescence" was required "in the decisions of the majority,—the vital principle of republics, from which there is no appeal but to force, the vital principle and immediate parent of despotism." No principle was so thoroughly entwined in the roots of Virginia republicanism as that which affirmed the worthlessness of decisions made by a majority of the United States, either as a nation or a confederacy, in matters which concerned the exercise of doubtful powers. Not three years had passed since Jefferson himself penned the draft of the Kentucky Resolutions, in which he declared <sup>1</sup> "that in cases of an abuse of the delegated powers, the members of the general government being chosen by the people, a change by the people would be the Constitutional remedy; but where powers are assumed which have not been delegated, a nullification of the act is the rightful remedy; that every State has a natural right, in cases not within the compact, to nullify of their own authority all assumptions of power by others within their limits; that without this right they would be under the dominion, absolute and unlimited, of whosoever might exercise this right of

<sup>1</sup> Jefferson's Works, ix. 469.

judgment for them." He went so far as to advise that every State should forbid, within its borders, the execution of any act of the general government "not plainly and intentionally authorized by the Constitution;" and although the legislatures of Kentucky and Virginia softened the language, they acted on the principle so far as to declare certain laws of the United States unconstitutional, with the additional understanding that whatever was unconstitutional was void. So far from accepting with "absolute acquiescence" the decisions of the majority, Jefferson and his followers held that freedom could be maintained only by preserving inviolate the right of every State to judge for itself what was, and what was not, lawful for a majority to decide.

What, too, was meant by the words which pledged the new Administration to preserve the general government "in its whole Constitutional vigor"? The two parties were divided by a bottomless gulf in their theories of Constitutional powers; but until the precedents established by the Federalists should be expressly reversed, no one could deny that those precedents, to be treated as acts of the majority with absolute acquiescence, were a measure of the vigor which the President pledged himself to preserve. Jefferson could not have intended such a conclusion; for how could he promise to "preserve" the powers assumed in the Alien and Sedition laws, which then represented the whole vigor of the general government in fact if not in theory, when he had himself

often and bitterly denounced those powers, when he had been a party to their nullification, and when he and his friends had actually prepared to resist by arms their enforcement? Undoubtedly Jefferson meant no more than to preserve the general government in such vigor as in his opinion was Constitutional, without regard to Federalist precedents; but his words were equivocal, and unless they were to be defined by legislation, they identified him with the contrary legislation of his predecessors. In history and law they did so. Neither the Alien nor the Sedition Act, nor any other Federalist precedent, was ever declared unconstitutional by any department of the general government; and Jefferson's pledge to preserve that government in its full Constitutional vigor was actually redeemed with no exception or limitation on the precedents established. His intention seemed to be different; but the sweeping language of his pledge was never afterward restricted or even more exactly defined while he remained in power.

Hence arose a sense of disappointment for future students of the Inaugural Address. A revolution had taken place; but the new President seemed anxious to prove that there had been no revolution at all. A new experiment in government was to be tried, and the philosopher at its head began by pledging himself to follow in the footsteps of his predecessors. Americans ended by taking him at his word, and by assuming that there was no break of continuity between his



ideas and those of President Washington; yet even at the moment of these assurances he was writing privately in an opposite sense. In his eyes the past was wrong, both in method and intention; its work must be undone and its example forgotten. His conviction of a radical difference between himself and his predecessors was expressed in the strongest language. His predecessors, in his opinion, had involved the government in difficulties in order to destroy it, and to build up a monarchy on its ruins. "The tough sides of our Argosie," he wrote two days after his inauguration,<sup>1</sup> "have been thoroughly tried. Her strength has stood the waves into which she was steered with a view to sink her. We shall put her on her Republican tack, and she will now show by the beauty of her motion the skill of her builders." "The Federalists," said he at one moment,<sup>2</sup> "wished for everything which would approach our new government to a monarchy; the Republicans, to preserve it essentially republican. . . . The real difference consisted in their different degrees of inclination to monarchy or republicanism." "The revolution of 1800," he wrote many years afterward,<sup>3</sup> "was as real a revolution in the principles of our government as that of 1776 was in its form."

Not, therefore, in the Inaugural Address, with its amiable professions of harmony, could President Jef-

<sup>1</sup> Jefferson to J. Dickinson, March 6, 1801; Works, iv. 365.

<sup>2</sup> Jefferson's Works, ix. 480.

<sup>3</sup> Jefferson to Roane, Sept. 6, 1819; Works, vii. 133.

person's full view of his own reforms be discovered. Judged by his inaugural addresses and annual messages, Jefferson's Administration seemed a colorless continuation of Washington's; but when seen in the light of private correspondence, the difference was complete. So strong was the new President's persuasion of the monarchical bent of his predecessors, that his joy at obtaining the government was mingled with a shade of surprise that his enemies should have handed to him, without question, the power they had so long held. He shared his fears of monarchy with politicians like William B. Giles, young John Randolph, and many Southern voters; and although neither Madison nor Gallatin seemed to think monarchists formidable, they gladly encouraged the President to pursue a conservative and conciliatory path. Jefferson and his Southern friends took power as republicans opposed to monarchists, not as democrats opposed to oligarchy. Jefferson himself was not in a social sense a democrat, and was called so only as a term of opprobrium. His Northern followers were in the main democrats; but he and most of his Southern partisans claimed to be republicans, opposed by secret monarchists.

The conflict of ideas between Southern republicanism, Northern democracy, and Federal monarchism marked much of Jefferson's writing; but especially when he began his career as President his mind was filled with the conviction that he had wrung power from monarchy, and that in this sense he was the

founder of a new republic. Henceforward, as he hoped, republicanism was forever safe; he had but to conciliate the misguided, and give an example to the world, for centralization was only a monarchical principle. Nearly twenty years passed before he woke to a doubt on this subject; but even then he did not admit a mistake. In the tendency to centralization he still saw no democratic instinct, but only the influence of monarchical Federalists "under the pseudo-republican mask."<sup>1</sup>

The republic which Jefferson believed himself to be founding or securing in 1801 was an enlarged Virginia, — a society to be kept pure and free by the absence of complicated interests, by the encouragement of agriculture and of commerce as its handmaid, but not of industry in a larger sense. "The agricultural capacities of our country," he wrote long afterward,<sup>2</sup> "constitute its distinguishing feature; and the adapting our policy and pursuits to that is more likely to make us a numerous and happy people than the mimicry of an Amsterdam, a Hamburg, or a city of London." He did not love mechanics or manufactures, or the capital without which they could not exist.<sup>3</sup> "Banking establishments are more dangerous than standing armies," he said; and added, "that the principle of spending money to be paid by posterity, under the name of funding, is but swindling futurity on a large

<sup>1</sup> Jefferson to Judge Johnson, June 12, 1823; Works, vii. 293.

<sup>2</sup> Jefferson to W. H. Crawford, June 20, 1816; Works, vii. 6.

<sup>3</sup> Jefferson to John Taylor, May 28, 1816; Works, vi. 608.

scale." Such theories were republican in the Virginia sense, but not democratic; they had nothing in common with the democracy of Pennsylvania and New England, except their love of freedom; and Virginia freedom was not the same conception as the democratic freedom of the North.

In 1801 this Virginia type was still the popular form of republicanism. Although the Northern democrat had already developed a tendency toward cities, manufactures, and "the mimicry of an Amsterdam, a Hamburg, or a city of London," while the republican of the South was distinguished by his dislike of every condition except that of agriculture, the two wings of the party had so much in common that they could afford to disregard for a time these divergencies of interest; and if the Virginians cared nothing for cities, banks, and manufactures, or if the Northern democrats troubled themselves little about the dangers of centralization, they could unite with one heart in overthrowing monarchy, and in effecting a social revolution.

Henceforward, as Jefferson conceived, government might act directly for the encouragement of agriculture and of commerce as its handmaid, for the diffusion of information and the arraignment of abuses; but there its positive functions stopped. Beyond that point only negative action remained, — respect for States' rights, preservation of constitutional powers, economy, and the maintenance of a pure and simple society such as already existed. With a political system which

would not take from the mouth of labor the bread it had earned, and which should leave men free to follow whatever paths of industry or improvement they might find most profitable, "the circle of felicities" was closed.

The possibility of foreign war alone disturbed this dream. President Washington himself might have been glad to accept these ideas of domestic politics, had not France, England, and Spain shown an unequivocal wish to take advantage of American weakness in arms in order to withhold rights vital to national welfare. How did Jefferson propose to convert a government of judiciary and police into the strongest government on earth? His answer to this question, omitted from the Inaugural Address, was to be found in his private correspondence and in the speeches of Gallatin and Madison as leaders of the opposition. He meant to prevent war. He was convinced that governments, like human beings, were on the whole controlled by their interests, and that the interests of Europe required peace and free commerce with America. Believing a union of European Powers to be impossible, he was willing to trust their jealousies of each other to secure their good treatment of the United States. Knowing that Congress could by a single act divert a stream of wealth from one European country to another, foreign Governments would hardly challenge the use of such a weapon, or long resist their own overpowering interests. The new President found in the Constitutional power "to regu-

late commerce with foreign nations" the machinery for doing away with navies, armies, and wars.

During eight years of opposition the Republican party had matured its doctrines on this subject. In 1797, in the midst of difficulties with France, Jefferson wrote: <sup>1</sup>—

"If we weather the present storm, I hope we shall avail ourselves of the calm of peace to place our foreign connections under a new and different arrangement. We must make the interest of every nation stand surety for their justice, and their own loss to follow injury to us, as effect follows its cause. As to everything except commerce, we ought to divorce ourselves from them all."

A few months before the inauguration, he wrote in terms more general: <sup>2</sup>—

"The true theory of our Constitution is surely the wisest and best, that the States are independent as to everything within themselves, and united as to everything respecting foreign nations. Let the general government be reduced to foreign concerns only, and let our affairs be disentangled from those of all other nations, except as to commerce, which the merchants will manage the better the more they are left free to manage for themselves, and our general government may be reduced to a very simple organization and a very unexpensive one, — a few plain duties to be performed by a few servants."

Immediately after the inauguration the new President explained his future foreign policy to corres-

<sup>1</sup> Jefferson to Edward Rutledge, June 24, 1797; Works, iv. 189.

<sup>2</sup> Jefferson to Gideon Granger, Aug. 13, 1800; Works, iv. 330.



pondents, who, as he knew, would spread his views widely throughout both continents. In a famous letter to Thomas Paine,<sup>1</sup> — a letter which was in some respects a true inaugural address, — Jefferson told the thought he had but hinted in public. “Determined as we are to avoid, if possible, wasting the energies of our people in war and destruction, we shall avoid implicating ourselves with the Powers of Europe, even in support of principles which we mean to pursue. They have so many other interests different from ours that we must avoid being entangled in them. We believe we can enforce those principles as to ourselves by peaceable means, now that we are likely to have our public councils detached from foreign views.” A few days later, he wrote to the well-known Pennsylvania peacemaker, Dr. Logan, and explained the process of enforcing against foreign nations “principles as to ourselves by peaceable means.” “Our commerce,” said he,<sup>2</sup> “is so valuable to them, that they will be glad to purchase it, when the only price we ask is to do us justice. I believe we have in our own hands the means of peaceable coercion; and that the moment they see our government so united as that we can make use of it, they will for their own interest be disposed to do us justice.”

To Chancellor Livingston, in September, 1801,<sup>3</sup> the President wrote his views of the principles which

<sup>1</sup> Jefferson to Thomas Paine, March 18, 1801; Works, iv. 370.

<sup>2</sup> Jefferson's Writings (Ford), viii. 23.

<sup>3</sup> Jefferson to R. R. Livingston, Sept. 9, 1801; Works, iv. 408.

he meant to pursue: "Yet in the present state of things," he added, "they are not worth a war; nor do I believe war the most certain means of enforcing them. Those peaceable coercions which are in the power of every nation, if undertaken in concert and in time of peace, are more likely to produce the desired effect."

That these views were new as a system in government could not be denied. In later life Jefferson frequently asserted, and took pains to impress upon his friends, the difference between his opinions and those of his Federalist opponents. The radical distinction lay in their opposite conceptions of the national government. The Federalists wished to extend its functions; Jefferson wished to exclude its influence from domestic affairs:—

"The people," he declared in 1821,<sup>1</sup> "to whom all authority belongs, have divided the powers of government into two distinct departments, the leading characters of which are foreign and domestic; and they have appointed for each a distinct set of functionaries. These they have made co-ordinate, checking and balancing each other, like the three cardinal departments in the individual States, —each equally supreme as to the powers delegated to itself, and neither authorized ultimately to decide what belongs to itself or to its coparcener in government. As independent, in fact, as different nations, a spirit of forbearance and compromise, therefore, and not of encroachment and usurpation, is the healing balm of such a Constitution."

<sup>1</sup> Jefferson to Judge Roane, June 27, 1821; Works, vii. 212.

In the year 1824 Jefferson still maintained the same doctrine, and expressed it more concisely than ever:—

“The federal is in truth our foreign government, which department alone is taken from the sovereignty of the separate States.”<sup>1</sup> “I recollect no case where a question simply between citizens of the same State has been transferred to the foreign department, except that of inhibiting tenders but of metallic money, and *ex post facto* legislation.”<sup>2</sup>

These expressions, taken together, partly explain why Jefferson thought his assumption of power to be “as real a revolution in the principles of our government as that of 1776 was in its form.” His view of governmental functions was simple and clearly expressed. The national government, as he conceived it, was a foreign department as independent from the domestic department, which belonged to the States, as though they were governments of different nations. He intended that the general government should “be reduced to foreign concerns only;” and his theory of foreign concerns was equally simple and clear. He meant to enforce against foreign nations such principles as national objects required, not by war, but by “peaceable coercion” through com-

<sup>1</sup> Jefferson to Robert J. Garnett, Feb. 14, 1824; Works, vii. 336.

<sup>2</sup> Jefferson to Edward Livingston, April 4, 1824; Works, vii. 342.

mercial restrictions. "Our commerce is so valuable to them that they will be glad to purchase it, when the only price we ask is to do us justice."

The history of his Administration will show how these principles were applied, and what success attended the experiment.

## CHAPTER VIII.

IN 1801, and throughout Jefferson's Administration, the Cabinet consisted of five heads of department,—the Secretaries of State, of the Treasury, of the Army, and of the Navy, with the Attorney-General. The law business of the government being light, the Attorney-General was frequently absent, and, indeed, was not required to reside permanently at Washington. Rather the official counsel of government than a head of department, he had no clerks or office-room, and his salary was lower than that of his colleagues. The true Cabinet consisted of the four secretaries; and the true government rested in still fewer hands, for it naturally fell within the control of the officers whose responsibility was greatest,—the President, the Secretary of State, and the Secretary of the Treasury.

Simple as such a system was, Jefferson found that months elapsed before his new Cabinet could be organized and set at work. Although Madison was instantly nominated and confirmed as Secretary of State, some weeks passed before he arrived in Washington and assumed his duties. Gallatin was supposed to be in danger of rejection by the Senate, and

his nomination as Secretary of the Treasury was therefore postponed till the next session. This delay was not allowed to prevent his taking charge of the office; but he was obliged first to make the long journey to his residence on the Monongahela, in southwestern Pennsylvania, in order to arrange his affairs and bring his family to Washington. During the interval between the inauguration and the meeting of his completed Cabinet, Jefferson was left without means of governing. For Attorney-General he selected Levi Lincoln, a lawyer of Worcester County in Massachusetts, who had been recently elected to fill a vacancy in the House of Representatives, and, being on the spot, was useful in acting as Secretary of State, or in any other capacity in which the services of a secretary were required. For the War Department the President chose Henry Dearborn, a resident of the District of Maine, then a part of Massachusetts. With such assistance as Lincoln and Dearborn could give, and with the aid of Samuel Dexter the Federalist Secretary of the Treasury, and Benjamin Stoddert the Federalist Secretary of the Navy, who consented to remain for a time, Jefferson slowly set his Administration in motion.

The Navy Department seemed likely to baffle the President's utmost efforts. The appointment was intended for Robert R. Livingston of New York, who refused; then it was offered to Samuel Smith of Maryland, a prominent member of Congress; but General Smith was a merchant, and declined to aban-



don his business. Next, the place was pressed upon John Langdon of New Hampshire, although New England already supplied two members of the Cabinet. Langdon refusing, the President wrote to William Jones of Philadelphia, a member of the next Congress, who declined. Meanwhile Benjamin Stoddert became weary of waiting, and Samuel Smith consented to perform the duties in order to give the President time for further search. At the end of March, Jefferson left Washington to pass the month of April at Monticello, and on his return, May 1, the Navy Department was still unfilled. Not until July did General Smith succeed in escaping the burden of his temporary duties. Then the President abandoned the attempt to place a man of public importance in the position, and allowed Samuel Smith to substitute in his place his brother Robert, a Baltimore lawyer, whose fitness for naval duties was supposed to consist chiefly in the advice and aid which Samuel would supply.

The appointment of Robert Smith, July 15, completed the Cabinet. Of its five members, only two — Madison and Gallatin — were much known beyond their States. Neither Dearborn nor Lincoln was so strong, either in political or social connections or in force of character, as greatly to affect the course of the Cabinet, and both were too honest to thwart it.

“General Dearborn is a man of strong sense, great practical information on all the subjects connected with

his department, and is what is called a man of business. He is not, I believe, a scholar; but I think he will make the best Secretary of War we have as yet had. Mr. Lincoln is a good lawyer, a fine scholar, a man of great discretion and sound judgment, and of the mildest and most amiable manners. He has never, I should think from his manners, been out of his own State, or mixed much with the world, except on business. Both are men of 1776, sound and decided Republicans; both are men of the strictest integrity; and both, but Mr. Lincoln principally, have a great weight of character to the Eastward with both parties.”<sup>1</sup>

Thus Gallatin, March 12, before his own appointment, estimated the characters of his two New England colleagues. The confidence reposed in them was justified by the result. Neither Dearborn nor Lincoln showed remarkable powers, but the work they had to do was done without complaint or objection. No charge of dishonesty, of intrigue, or of selfish ambition was made against them; and they retired from office at last with as much modesty as they showed in entering it, after serving Jefferson faithfully and well.

In some respects Robert Smith was better suited than either Dearborn or Lincoln for a seat in Jefferson's Cabinet. The Smiths were strong not only in Maryland, but also in Virginia, being connected by marriage with Wilson Cary Nicholas, one of the most influential Republican politicians of the State, whose

<sup>1</sup> Life of Gallatin, p. 276.

relations with Jefferson were intimate. Robert Smith was a Baltimore gentleman, easy and cordial, glad to oblige and fond of power and show, popular in the navy, yielding in the Cabinet, but as little fitted as Jefferson himself for the task of administering with severe economy an unpopular service. The navy was wholly Federalist in tendencies and composition. The Republican party had always denounced this Federalist creation; and that a navy caused more dangers than it prevented or corrected, was one of the deepest convictions that underlay the policy of Jefferson, Madison, and Gallatin. In theory they had no use for a sea-going navy; at the utmost they wanted only coast and harbor defences, sloops-of-war and gunboats. During the four years of the last Administration, of a total expenditure averaging about \$11,000,000 per annum, not less than \$2,500,000 had been annually spent on the navy. The public debt itself required only about \$4,500,000, and the army less than \$3,000,000. Economies in the debt were impossible; on the contrary, a mass of deferred annuities was to be met, and some provision must be made for more rapid discharge of the principal. Economies in the civil list were equally impossible; for the Federalists had there wasted little money, and salaries were low. The army and navy could alone be cut down; and since the Western people required regular troops for their defence against the Indians, the most radical reformers hardly ventured to recommend that the army should be reduced much below

an aggregate of three thousand rank-and-file. The navy, on the other hand, was believed to be wholly superfluous, and Jefferson was anxious to lay up all the larger ships, especially the frigates.

“I shall really be chagrined,” he wrote from Monticello in April,<sup>1</sup> “if the water in the Eastern Branch will not admit our laying up the whole seven there in time of peace, because they would be under the immediate eye of the department, and would require but one set of plunderers to take care of them. As to what is to be done when everything shall be disposed of according to law, it shall be the subject of conversation when I return. It oppresses me by night and by day, for I do not see my way out of the difficulty. It is the department I understand the least, and therefore need a person whose complete competence will justify the most entire confidence and resignation.”

Robert Smith was certainly not such a person as Jefferson described, and his appointment, however suitable in other respects, was not likely to attain the object which Jefferson had at heart.

Hardly was the Navy Department thus bestowed, and the new Cabinet, toward the middle of July, completely organized for the work that was still to be defined, when another annoyance distracted the President's attention from the main objects of his policy. The government had been, for eight years, in the hands of Federalist partisans. If, as Jefferson declared in his Inaugural Address, “we are all Re-

<sup>1</sup> Jefferson to S. Smith, April 17, 1801; Jefferson MSS.

publicans, we are all Federalists ;” if differences of opinion were not differences of principle ; if he seriously wished all Americans to “ restore to social intercourse that harmony and affection without which liberty and even life itself are but dreary things,” — he could afford to make few removals for party reasons. On the other hand, if, as he privately declared and as was commonly believed, the actual office-holders were monarchists at heart, and could not be trusted to carry the new Republican principles into practice, the public welfare required great changes. For the first time in national experience, the use of patronage needed some definite regulation.

The most skilful politician must have failed in the attempt to explain that a revolution had been made which ought to satisfy every one, by methods which no one had an excuse for opposing. Jefferson was embarrassed, not so much by the patronage, as by the apparent inconsistency between his professions and his acts concerning it. At first he hoped to make few removals, and these only for misconduct or other sufficient cause. “ Of the thousands of officers in the United States,” he wrote to Dr. Rush,<sup>1</sup> “ a very few individuals only, probably not twenty, will be removed ; and these only for doing what they ought not to have done.” As these removals began, the outcry of the Federalists grew loud, until the President thought himself obliged to defend his course. The occasion was furnished by the State of Connecticut,

<sup>1</sup> Jefferson to Dr. Rush, March 24, 1801 ; Works, iv. 382.

where the necessity for a change in office-holders was proved by the temper of the office-holding class. "The spirit in that State," wrote Madison,<sup>1</sup> July 10, "is so perverse that it must be rectified by a peculiar mixture of energy and delicacy." The spirit of which Madison complained was illustrated, only three days before, by an oration delivered July 7, at New Haven, by Theodore Dwight. The government, said Dwight, which had been established under the auspices of Washington was the sport of popular commotion, adrift without helm or compass in a turbid and boisterous ocean.

"The great object of Jacobinism, both in its political and moral revolution, is to destroy every trace of civilization in the world, and to force mankind back into a savage state. . . . That is, in plain English, the greatest villain in the community is the fittest person to make and execute the laws. Graduated by this scale, there can be no doubt that Jacobins have the highest qualifications for rulers. . . . We have now reached the consummation of democratic blessedness. We have a country governed by blockheads and knaves; the ties of marriage with all its felicities are severed and destroyed; our wives and daughters are thrown into the stews; our children are cast into the world from the breast and forgotten; filial piety is extinguished, and our surnames, the only mark of distinction among families, are abolished. Can the imagination paint anything more dreadful on this side hell?"

<sup>1</sup> Madison to W. C. Nicholas, July 10, 1801; Nicholas MSS.



In the fervor of his representation, Dwight painted what he believed was to happen as though it had actually come to pass. He and his friends, at least, felt no doubt of it. Madison could hardly be blamed for thinking this spirit perverse; and the President was as little to be censured for wishing to rectify it. Elizur Goodrich, a person who was quite in the same way of thinking, was Collector of New Haven. Jefferson removed him, and appointed an old man named Bishop, whose son had made himself conspicuous by zealous republicanism in a community where zeal in such a cause was accounted a social crime. A keen remonstrance was drawn up, signed by New Haven merchants, and sent to the President. Couched, as Madison said, "in the strongest terms that decorum would tolerate," this vigorous paper was in effect a challenge, for it called on the President to proclaim whether he meant to stand by the conciliatory professions of his Inaugural Address, or on his private convictions; and Jefferson was not slow to accept the challenge, in order to withdraw himself from an embarrassing position which was rapidly rousing discontent among his friends. He wrote a reply to the New Haven remonstrants, in which, without going so far as to assert that to the victors belonged the spoils, he contented himself with claiming that to the victors belonged half the spoils. Without abandoning his claim to establish harmony, he appealed to the necessity under which he was placed by the duty of doing justice to his friends.

“If a due participation of office,” he said,<sup>1</sup> “is a matter of right, how are vacancies to be obtained? Those by death are few; by resignation, none. Can any other mode than that of removal be proposed? This is a painful office, but it is made my duty, and I meet it as such.”

The Federalists found much material for ridicule in these expressions, which were certainly open to criticism; but the chief objection was that they admitted an unwilling surrender to the demands of office-seekers.

“It would have been to me a circumstance of great relief had I found a moderate participation of office in the hands of the majority. I would gladly have left to time and accident to raise them to their just share. But their total exclusion calls for prompter corrections. I shall correct the procedure, but that done, disdain to follow it, shall return with joy to that state of things when the only questions concerning a candidate shall be: Is he honest? Is he capable? Is he faithful to the Constitution?”

With a degree of deference to his critics which was perhaps unnecessary, and was certainly unfortunate, Jefferson characterized the officials who were to be first removed. “I proceed in the operation,” he said, “with deliberation and inquiry, that it may injure the best men least, and effect the purposes of justice and public utility with the least private distress; that it may be thrown, as much as possible, on delinquency,

<sup>1</sup> Writings of Jefferson (Ford), viii. 67-70.

on oppression, on intolerance, on ante-Revolutionary adherence to our enemies." Language so mild soothed and conciliated hundreds of voters who were glad to meet Jefferson's advances, but at the cost of increasing the anger felt by the great mass of Federalists for professions which they believed to be deceptive. For this result Jefferson was probably prepared, but he could hardly have intended that his letter should, by a common accident of politics, serve to create ill-feeling in his own party.

Rules which might suit New England conveyed quite another impression elsewhere. While Jefferson professed tenderness to New England in order to undermine a Federalist majority, nothing of the sort was needed in other States of the Union. New York and Pennsylvania had grown used to the abuse of political patronage, and no sooner had the Republicans wrested these two States from Federalist hands than they rooted out all vestige of Federalist influence. Governor McKean, in Pennsylvania, was arbitrary enough; but when George Clinton, elected Governor of New York in the spring of 1801, came into power, the State government showed no disposition to imitate Jefferson's delicacy or his professions. August 8, 1801, a few weeks after the New Haven letter was written, Governor Clinton called a meeting of the Council which, under the Constitution of New York, had charge of the State patronage. Young De Witt Clinton and his friend Ambrose Spencer controlled this Council, and they were not persons who affected

scruple in matters of political self-interest. They swept the Federalists out of every office even down to that of auctioneer, and without regard to appearances, even against the protests of the Governor, installed their own friends and family connections in power.

Had this been all, Jefferson might have ignored it. The difficulties he encountered in New York were caused not so much by the removal of Federalists, as by unwillingness to appoint Republicans. Jefferson did not like the Clintons, but he liked Aaron Burr still less.

The character of Burr was well understood by the party leaders on both sides long before 1800. The Virginians twice refused to vote for him as Vice-President before they were induced to do so in that year. Jefferson himself recorded that he considered Burr as for sale between 1790 and 1800; he even added that the two parties bid against each other in the latter year for the prize. "He was told by Dayton in 1800 he might be Secretary at War; but this bid was too late; his election as Vice-President was then foreseen."<sup>1</sup> According to this view, the Virginians bought him; but they had no sooner done so than they prayed to be delivered from their bargain; and De Witt Clinton undertook to deliver them, with a tacit understanding, at least on his part, that in 1808 the Virginians must reckon with him for the debt.

<sup>1</sup> Jefferson's *Anas*; Works. ix. 207.

Not, therefore, Federalists alone were victims of the scandal in New York. The exhibition of selfish intrigue which centred in New York politics was calculated to startle Jefferson from his confidence in human nature. Burr's overthrow was a matter of offices and public patronage; no principle of reform or pure motive in any person was involved in it. The New York Republicans were divided into three factions, represented by the Clinton, Livingston, and Burr interests; and among them was so little difference in principle or morals, that a politician as honest and an observer as keen as Albert Gallatin inclined to Burr as the least selfish of the three.<sup>1</sup> The Vice-President was popular in the city of New York, and to some extent in the country districts throughout the State. Bad as his morality was understood to be, he had at that time committed no offence that warranted ostracism; but from the moment of Governor Clinton's accession to power, he was pursued and persecuted by the whole Clinton interest.

Burr, aware of the dislike and jealousy with which the Clintons regarded him, had until then depended for a counterbalance on the Livingston interest, of which General Armstrong in the Senate and Edward Livingston in the House were the representatives at Washington; in alliance with them and in accord with Gallatin, he parcelled out the federal patronage of the State. His chief anxiety was to provide offices for his two friends, John Swartwout and Matthew L.

<sup>1</sup> Gallatin to Jefferson, Sept. 14, 1801; Adams's Gallatin, p. 288.

Davis ; and he succeeded in obtaining for the first the marshalship of New York, for the second a promise of the supervisorship. No sooner did the news of this arrangement reach the ears of De Witt Clinton than he remonstrated, and in a few days drew from President Jefferson a letter addressed to Governor Clinton, which in effect surrendered Burr into the hands of his enemies. "The following arrangement," wrote the President,<sup>1</sup> May 17, "was agreed on by Colonel Burr and some of your senators and representatives, — David Gelston, collector ; Theodorus Bailey, naval officer ; and M. L. Davis, supervisor." Objections had been made. Would Governor Clinton express his opinion ?

In a short time Burr found that the President showed no alacrity for the removal of Federalist officials in New York. Neither Bailey nor Davis was appointed. Bailey, hitherto a friend of Burr, withdrew from his candidacy under a promise, as was supposed, of the postmastership ; and Davis was pressed by Burr for the post of naval officer, then held by a Federalist named Rogers, who was charged with adhesion to the British during the Revolution. Within six weeks after Jefferson's letter to Governor Clinton, Burr caught the rumor of some secret understanding, and wrote angrily to Gallatin,<sup>2</sup> —

"Strange reports are here in circulation respecting secret machinations against Davis. . . . This thing has,

<sup>1</sup> Jefferson's Writings (Ford), viii. 53.

<sup>2</sup> Burr to Gallatin, June 28, 1801 ; Adams's Gallatin, p. 283.



in my opinion, gone too far to be now defeated. . . . Davis is too important to be trifled with."

His remonstrances fell on deaf ears. No entreaty, even from Gallatin himself, could thenceforward induce the President to open his mouth on the subject. After waiting two months longer, Davis resorted to the desperate expedient of seeking a personal interview; and early in September undertook the long journey to Monticello, furnished with a strong letter from Gallatin, and supported by a private letter which was stronger still:<sup>1</sup> —

"I dislike much," wrote the Secretary in this remarkable paper, "the idea of supporting a section of Republicans in New York, and mistrusting the great majority because that section is supposed to be hostile to Burr, and he is considered as the leader of that majority. A great reason against such policy is that the reputed leaders of that section, — I mean the Livingstons generally, and some broken remnants of the Clintonian party who hate Burr, — . . . are so selfish and so uninfluential that they never can obtain their great object, the State government, without the assistance of what is called Burr's party, and will not hesitate a moment to bargain for that object with him and his friends, granting in exchange their support for anything he or they may want out of the State. . . . I do not know that there is hardly a man who meddles with politics in New York who does not believe that Davis's rejection is owing to Burr's recommendation."

<sup>1</sup> Gallatin to Jefferson, Sept. 14, 1801; Adams's Gallatin, p. 288.

Gallatin was not in the secret. Although he was the only Cabinet representative of the Middle States, his advice was neither asked nor followed. Jefferson had decided to let De Witt Clinton have his way, but he explained his intentions neither to Gallatin, Burr, nor to Davis. In reply to Gallatin's remonstrance, he wrote back from Monticello:<sup>1</sup> "Mr. Davis is now with me. He has not opened himself. When he does, I shall inform him that nothing is decided, nor can be till we get together at Washington."

That nothing had been decided was not only, as Burr called it,<sup>2</sup> a "commonplace" answer, but was also incorrect. Everything had been decided; and by the time Davis, amid the jeers of the press, rejoined Burr in New York, the results of the Clinton intrigue had become visible. While Jefferson withheld from Burr all sign of support, De Witt Clinton and Ambrose Spencer, acting in unison with the President, detached the Livingstons from Burr's interest. The Chancellor was already provided for. Too important to be overlooked, he was offered and had accepted the mission to France even before the inauguration.<sup>3</sup> Edward Livingston, Burr's friend, was made mayor of New York,—an office then in the gift of the Council, and supposed to be worth ten thousand dollars a year.<sup>4</sup> He also received from Jefferson the

<sup>1</sup> Jefferson to Gallatin; Adams's Gallatin, p. 289.

<sup>2</sup> Burr to Gallatin, March 5, 1802; Adams's Gallatin, p. 289.

<sup>3</sup> Jefferson to Livingston, Feb. 24, 1801; Jefferson's Works, iv. 360.

<sup>4</sup> Hammond's Political History, i. 180.

appointment of district attorney. The chief-justice and two of the Supreme Court judges were of the Livingston connection. The secretary of state was another of the family, and General Armstrong, one of the senators in Congress, still another. In various meetings of the Council of Appointment during the summer and autumn, the State and city offices were taken from the Federalists and divided between the Clintons and Livingstons, until the Livingstons were gorged; while Burr was left to beg from Jefferson the share of national patronage which De Witt Clinton had months before taken measures to prevent his obtaining.

That Jefferson and De Witt Clinton expected and intended to drive Burr from the party was already clear to Burr and his friends as early as September, 1801, when Matthew L. Davis forced himself into Jefferson's house at Monticello, while Burr watched the tactics of De Witt Clinton's Council of Appointment. On both sides the game was selfish, and belonged rather to the intrigues of Guelfs and Ghibelines in some Italian city of the thirteenth century than to the pure atmosphere of Jefferson's republicanism. The disgust of Gallatin was deep; but he knew too well the nature of New York politics to care greatly whether Burr or Clinton were to rule, and he was anxious only to stop the use of federal patronage in the interests of party intrigue. The New Haven letter had not pleased him. Within a fortnight after that letter was written, he sent to the

President<sup>1</sup> the draft of a Treasury Circular which would not only have stopped the removal of inferior officers, but would have shut them out from active politics. Jefferson declined to approve it. He insisted that one half the tide-waiters and other employees should be changed before he should interfere. Gallatin replied that this had already been done. "The number of removals is not great, but in importance they are beyond their number. The supervisors of all the violent party States embrace all the collectors. Add to that the intended change in the post-office, and you have in fact every man in office out of the seaports." Still Jefferson hung back, and declared that it would be a poor manœuvre to revolt tried friends in order to conciliate moderate Federalists.<sup>2</sup> He could not follow his true instincts; for the pressure upon him, although trifling when compared with what he thus helped to bring on his successors, was more than he could bear. In New York Governor Clinton protested in vain against the abuse of patronage, and from Pennsylvania Governor McKean wrote:<sup>3</sup> "The thirst for office is immoderate; it has become an object of serious attention, and I wish I knew how to check it." The scandalous proceedings of the New York Council of Appointment sharpened the tone of Gallatin, who declared that they disgraced the

<sup>1</sup> Gallatin to Jefferson, July 25, 1801; Gallatin's Works, i. 28.

<sup>2</sup> Jefferson to Gallatin, August 14, 1801; Gallatin's Works, i. 36.

<sup>3</sup> McKean to Jefferson, August 10, 1801; Jefferson MSS.

Republican cause, and sank the Administration itself to a level with its predecessor.<sup>1</sup> With all this, the only removal in New York which Jefferson resolutely resisted, was that of the supposed Revolutionary Tory whose place was asked for Matthew L. Davis by Vice-President Burr.

No other member of the Cabinet offered active support to Gallatin in this struggle against the use of federal patronage. Madison concurred with the President in thinking the proposed Treasury Circular premature.<sup>2</sup> Nevertheless the Secretary of State made no changes in the bureaus of his department, although these were full of zealous Federalists. Not even the chief clerk, Jacob Wagner, was removed, as bitter a Federalist as any in the United States, whose presence in the office was a disadvantage if not a danger to the Government. When Duane came to Washington, after the New York removals had begun, and urged sweeping measures of change, he was coldly received at the State and Treasury departments,<sup>3</sup> which gave him contracts for supplying paper, but declined to give him offices; and Duane returned to Philadelphia bearing toward Madison and Gallatin a grudge which he never forgot, and

<sup>1</sup> Gallatin to Jefferson, Sept. 12, 1801; Gallatin's Works, i. 47.

<sup>2</sup> Jefferson to Gallatin, July 26, 1801; Gallatin's Works, i. 29. Gallatin to Jefferson, Sept. 18, 1804; Gallatin's Works, i. 208.

<sup>3</sup> Gallatin to Jefferson, August 17, 1801; Gallatin's Works, i. 38.

which, like that of Burr, was destined in due time to envenom a party schism.

Although these disputes over patronage seemed to require more of the President's thoughts than were exacted by the study of general policy, the task of government was not severe. After passing the month of April at Monticello, Jefferson was able to rest there during the months of August and September, leaving Washington July 30. During six months, from April to October, he wrote less than was his custom, and his letters gave no clear idea of what was passing in his mind. In regard to his principles of general policy he was singularly cautious.

“I am sensible,” he wrote, March 31,<sup>1</sup> “how far I should fall short of effecting all the reformation which reason could suggest and experience approve, were I free to do whatever I thought best; but when we reflect how difficult it is to move or inflect the great machine of society, how impossible to advance the notions of a whole people suddenly to ideal right, we see the wisdom of Solon's remark, — that no more good must be attempted than the nation can bear, and that all will be chiefly to reform the waste of public money, and thus drive away the vultures who prey upon it, and improve some little on old routines.”

“Levees are done away,” he wrote to Macon;<sup>2</sup> “the first communication to the next Congress will be, like all subsequent ones, by message, to which no answer will be expected; the diplomatic establishment in Europe will be

<sup>1</sup> Jefferson to Walter Jones, March 31, 1801; Works, iv. 392.

<sup>2</sup> Jefferson to Macon, May 14, 1801; Works, iv. 396.



reduced to three ministers; the army is undergoing a chaste reformation; the navy will be reduced to the legal establishment by the last of this month; agencies in every department will be revised; we shall push you to the utmost in economizing."

His followers were not altogether pleased with his moderation of tone. They had expected a change of system more revolutionary than was implied by a pledge to do away with the President's occasional receptions and his annual speech to Congress, to cut off three second-rate foreign missions, to chasten the army, and to execute a Federalist law about the navy, or even to revise agencies. John Randolph wrote, July 18, to his friend Joseph Nicholson, a member from Maryland:<sup>1</sup> "In this quarter we think that the great work is only begun, and that without a substantial reform we shall have little reason to congratulate ourselves on the mere change of men."

The task of devising what Randolph called a substantial reform fell almost wholly upon Gallatin, who arrived in Washington, May 13, and set himself to the labor of reducing to a system the theories with which he had indoctrinated his party. Through the summer and autumn he toiled upon this problem, which the President left in his hands. When October arrived, and the whole Cabinet assembled at length in Washington, under the President's eye, to prepare business for the coming session, Gallatin produced his scheme. First, he required common consent to

<sup>1</sup> Adams's Randolph, p. 51.

the general principle that payment of debt should take precedence of all other expenditure. This axiom of Republicanism was a party dogma too well settled to be disputed. Debt, taxes, wars, armies, and navies were all pillars of corruption; but the habit of mortgaging the future to support present waste was the most fatal to freedom and purity. Having fixed this broad principle, which was, as Gallatin afterward declared, the principal object of bringing him into office,<sup>1</sup> a harder task remained; for if theory required prompt payment of the debt, party interest insisted with still greater energy on reduction of taxes; and the revenue was not sufficient to satisfy both demands. The customs duties were already low. The highest *ad valorem* rate was twenty per cent; the average was but thirteen. Reduction to a lower average, except in the specific duties on salt, coffee, and sugar, was asked by no one; and Gallatin could not increase the rates even to relieve taxation elsewhere. Whatever relief the party required must come from another source.

The Secretary began by fixing the limits of his main scheme. Assuming four Administrations, or sixteen years, as a fair allowance of time for extinguishing the debt, he calculated the annual sum which would be required for the purpose, and found that \$7,300,000 applied every year to the payment of interest and principal would discharge the whole within the year 1817. Setting aside \$7,300,000 as

<sup>1</sup> Life of Gallatin, p. 270.

an annual fund to be devoted by law to this primary object, he had to deal only with such revenue as should remain.

The net receipts from customs he calculated at \$9,500,000 for the year, and from lands and postage at \$450,000; or \$9,950,000 in all. Besides this sum of less than ten million dollars, internal taxes, and especially the tax on whiskey-stills, produced altogether about \$650,000; thus raising the income to \$10,600,000, or \$3,300,000 in excess of the fund set apart for the debt.

If taxation were to be reduced at all, political reasons required that the unpopular excise should come first in order of reduction; but if the excise were abolished, the other internal taxes were not worth retaining. Led by the wish to relieve government and people from the whole system of internal taxation, Gallatin consented to sacrifice the revenue it produced. After thus parting with internal revenue to the amount of \$650,000, and setting aside \$7,300,000 for the debt, he could offer to the other heads of departments only \$2,650,000 for the entire expenses of government. Gallatin expected the army to be supported on \$930,000, while the navy was to be satisfied with \$670,000, — a charge of less than thirty-three cents a head on the white population.

Of all standards by which the nature of Jeffersonian principles could be gauged, none was so striking as this. The highest expenditure of the Federalists in 1799, when preparing for war with France and con-

structing a navy and an army, was six million dollars for these two branches. Peace with France being made in 1800, the expenses of army and navy would naturally fall to a normal average of about three million dollars. At a time when the population was small, scattered, and surrounded by enemies, civilized and savage; when the Mississippi River, the Gulf region, and the Atlantic coast as far as the St. Mary's were in the hands of Spain, which was still a great power; when English frigates were impressing American seamen by scores, and Napoleon Bonaparte was suspected of having bought Louisiana; when New York might be ransomed by any line-of-battle ship, and not a road existed by which a light field-piece could be hauled to the Lakes or to a frontier fort,—at such a moment, the people could hardly refuse to pay sixty cents apiece for providing some protection against dangers which time was to prove as serious as any one then imagined them to be. Doubtless the republican theory required the States to protect their own coasts and to enforce order within their own jurisdiction; but the States were not competent to act in matters which concerned the nation, and the immense territory, the Lakes, and the Mississippi and Mobile rivers, belonged within the exclusive sphere of national government.

Gallatin cut down by one half the natural estimate. That he should have done this was not surprising, for he was put in office to reduce debt and

taxation, not to manage the army and navy; but he could hardly have expected that all his colleagues should agree with him, — yet his estimates were accepted by the Cabinet without serious objection, and adopted as a practical scale of governmental expenditure. Encouraged by the announcement of peace in Europe, the Secretaries of War and of the Navy consented to reduce their establishments to suit Gallatin's plans, until the entire expense of both branches for the future was to be brought within \$1,900,000; while Gallatin on his side made some concessions which saved his estimates from error. The army bore the brunt of these economies, and was reduced to about three thousand men. The navy was not so great a sufferer, and its calculated reductions were less certain.

Gallatin's scheme partially warranted the claim which Jefferson in his old age loved to put forward, that he had made a revolution in the principles of the government. Yet apart from the question of its success, its rigor was less extreme than it appeared to be. Doubtless, such excessive economy seemed to relieve government of duties as well as responsibilities. Congress and the Executive appeared disposed to act as a machine for recording events, without guiding or controlling them. The army was not large enough to hold the Indians in awe; the navy was not strong enough to watch the coasts; and the civil service was nearly restricted to the collection and disbursement of revenue. The country was at the

mercy of any Power which might choose to rob it, and the President announced in advance that he relied for safety upon the soundness of his theory that every foreign country felt a vital interest in retaining American commerce and the use of American harbors. All this was true, and the experiment might be called revolutionary, considering the condition of the world; nevertheless there were shades of difference in the arguments on which it rested. Even Jefferson wavered in asserting the permanence of the system, while Gallatin avowedly looked forward to the time when diminished debt and increasing resources would allow wider scope of action. Viewed from this standpoint, the system was less rigid than it seemed, since a period of not more than five or six years was needed to obtain Gallatin's object.

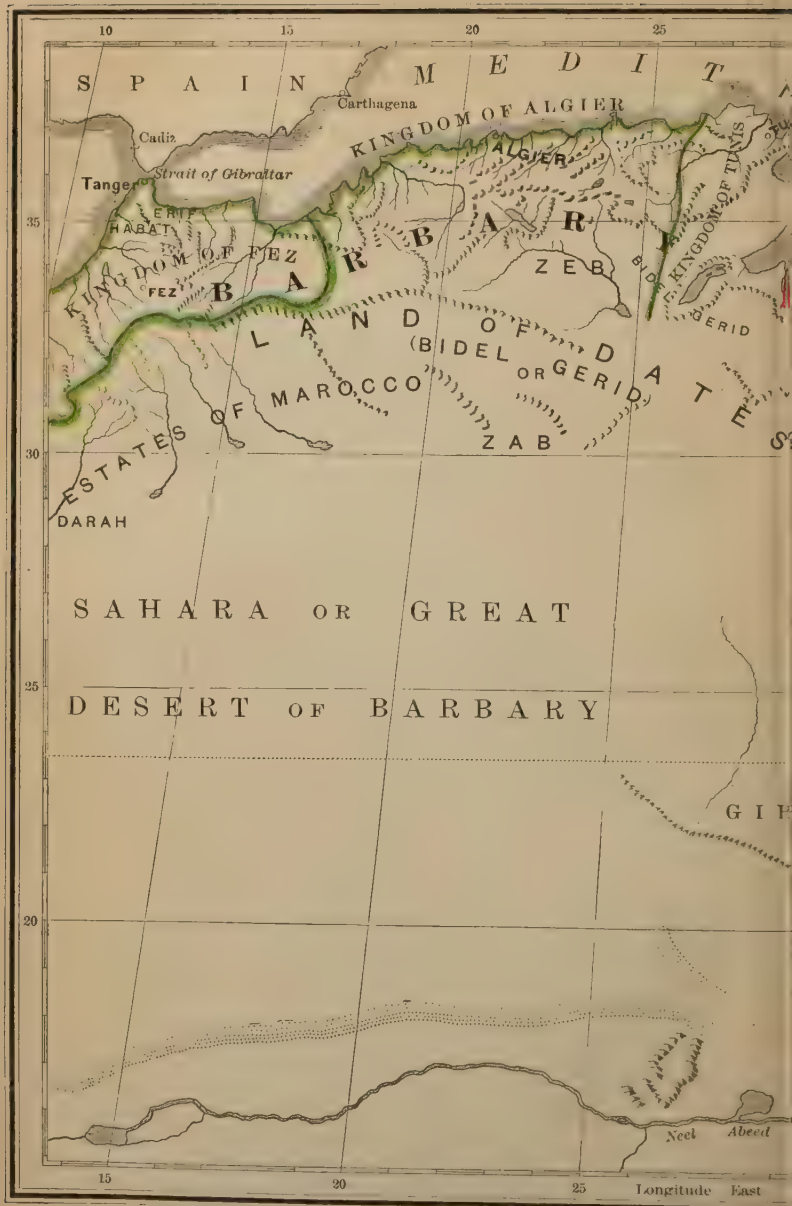
By an unlucky chance the system never became fully established. The first step in foreign affairs taken by the new Administration plunged it into difficulties which soon forced Congress to reimpose taxation to the full amount of the internal taxes. Jefferson had not been three months in power before he found himself, by no fault of his own or of his predecessors, at war with a country against which he was forced to use in his own defence some of those frigates, the construction of which had been vehemently resisted by his party, and which he was anxious only to leave under the care of a score of marines at the Navy Yard in the Eastern Branch of the Potomac. From time immemorial the north-

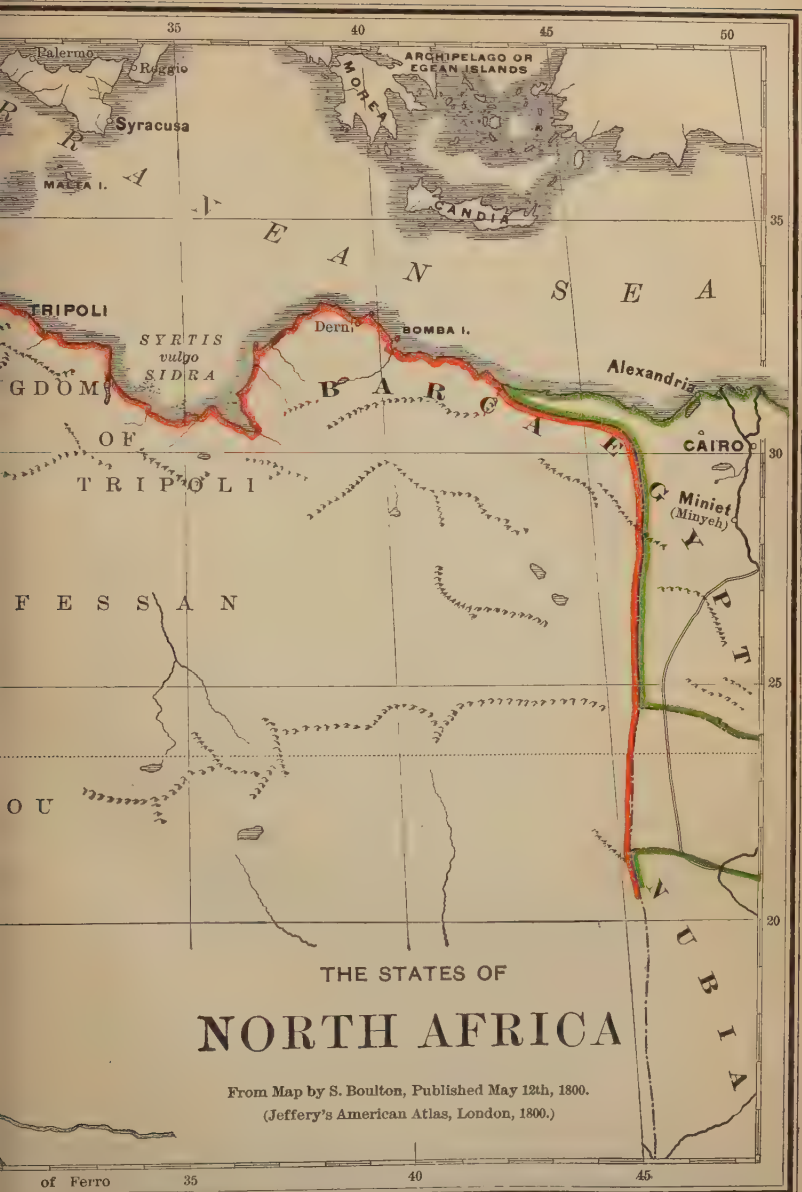


ern coast of Africa had been occupied by a swarm of pirates who played a dramatic part in the politics and literature of Europe. They figured in the story of Don Quixote as in the lies of Scapin, and enlivened with picturesque barbarism the semi-civilization of European habits and manners through centuries of slow growth. The four Barbary Powers, Morocco, Algiers, Tunis, and Tripoli, lived by blackmail. So little sense of common interest had the nations of Europe, that they submitted to the demands of these petty Mahometan despots, and paid yearly sums of money, or an equivalent in ships, arms, or warlike stores, in return for which the Barbary Powers permitted them to trade with the ports on the coast and protected their ships and men. The European consuls at Algiers, Tunis, and Tripoli intrigued to impose heavier conditions on rival commerce. Following the established custom, the United States had bought treaties with all four Powers, and had during the past ten years appropriated altogether more than two million dollars for the account of ransoms, gifts, and tribute. The treaty with Tripoli, negotiated in 1796, had been observed about three years and a half. The Pacha received under it from the United States Government \$83,000 in cash and presents. He suddenly demanded more, and when his demand was refused, May 14, 1801, he ordered the consular flagstaff to be cut down, which was his formal declaration of war.

The conduct of the Dey of Algiers was almost as









threatening to peace as that of the Pacha of Tripoli ; for the Dey compelled Captain Bainbridge to put his frigate, the "George Washington," under Algerine colors and carry an embassy and presents to the Grand Sultan. Rather than take the responsibility of bringing on a war, Bainbridge and Consul O'Brian submitted, under protest, to this indignity ; and in October, 1800, the United States flag was first seen at Constantinople in this extraordinary company. At the same time, Algiers, Tunis, and Morocco were clamorous for money, and gave reason to fear that they would make common cause with Tripoli in the war which the Pacha was declaring.

Under these circumstances, without knowing that war had actually begun, Samuel Smith, as acting Secretary of the Navy, in May, 1801, sent out Commodore Dale in command of a squadron of three frigates and an armed schooner, the "Enterprise," with orders to meet force by force. On her way to Malta, August 1, the "Enterprise" met and destroyed a Tripolitan corsair. Commodore Dale blockaded Tripoli ; and his appearance in the Mediterranean inspired Tunis and Algiers with so much respect as caused them to leave the Pacha of Tripoli to his fate, and to accept the presents which their treaties stipulated. Much injury to American commerce was prevented ; but Gallatin found a war and a navy fastened on his resources.

That enlightened governments like those of England, France, and Spain should rob and plunder like



an Algerine pirate was in theory not to be admitted; but even if they did so, a few frigates could not prevent them, and therefore Jefferson, without regard to this partial failure of his system, prepared to meet Congress with confidence in his reforms.

## CHAPTER IX.

PRESIDENT WASHINGTON began his administration by addressing Congress in a speech, which Congress answered; and the precedent established by him in 1790 was followed by his successor. The custom was regarded by the opposition as an English habit, tending to familiarize the public with monarchical ideas, and Jefferson gave early warning that he should address Congress in a message, which would require no answer. In after times the difference between oral and written communications as signs of monarchy or republicanism became less self-evident; but the habit of writing to Congress was convenient, especially to Presidents who disliked public speaking, and Jefferson's practice remained the rule. The Federalists naturally regarded the change as a reproof, and never admitted its advantages. The Republicans also missed some of the conveniences of the old system. John Randolph, eight years afterward, seemed to regret that the speech had been abandoned:<sup>1</sup>—

“The answer to an Address, although that answer might finally contain the most exceptionable passages,

<sup>1</sup> Annals of Congress, May 26, 1809, XI. Congress, Part I. p. 92.

was in fact the greatest opportunity which the opposition to the measures of the Administration had of canvassing and sifting its measures. . . . This opportunity of discussion of the answer to an Address, however exceptionable the answer might be when it had received the last seasoning for the Presidential palate, did afford the best opportunity to take a review of the measures of the Administration, to canvass them fully and fairly, without there being any question raised whether the gentleman was in order or not; and I believe the time spent in canvassing the answer to a speech was at least as well spent as a great deal that we have expended since we discontinued the practice."

President Jefferson did not assign political reasons for changing the custom. "I have had a principal regard," he said,<sup>1</sup> "to the convenience of the legislature, to the economy of their time, to their relief from the embarrassment of immediate answers on subjects not yet fully before them, and to the benefits thence resulting to the public affairs." With this preamble, he sent his message.

Jefferson's first Annual Message deserved study less for what it contained than for what it omitted. If the scope of reform was to be measured by the President's official recommendations, party spirit was likely to find little excuse for violence. The Message began by announcing, in contrast with the expectations of Republicans, that while Europe had returned to peace the United States had begun a war, and that a hostile cruiser had been captured "after a heavy

<sup>1</sup> Letter to the President of the Senate, Dec. 8, 1801.

slaughter of her men." The Federalist wits made fun of the moral which the President added to soften the announcement of such an event: "The bravery exhibited by our citizens on that element will, I trust, be a testimony to the world that it is not the want of that virtue which makes us seek their peace, but a conscientious desire to direct the energies of our nation to the multiplication of the human race, and not to its destruction." The idea seemed a favorite one with the President, for he next congratulated Congress on the results of the new census, which, he said, "promises a duplication in little more than twenty-two years. We contemplate this rapid growth and the prospect it holds up to us, not with a view to the injuries it may enable us to do to others in some future day, but to the settlement of the extensive country still remaining vacant within our limits, to the multiplications of men susceptible of happiness, educated in the love of order, habituated to self-government, and valuing its blessings above all price."

Just and benevolent as this sentiment might be, Jefferson rarely invented a phrase open to more perversion than when he thus announced his party's "conscientious desire to direct the energies of our nation to the multiplication of the human race." Perhaps his want of a sense of humor prevented his noticing this slip of the tongue which the English language had no precise word to describe; perhaps he intended the phrase rather for a European

than for an American audience; in any case, such an introduction to his proposed reforms, in the eyes of opponents, injured their dignity and force. As he approached the reforms themselves, the manner in which he preferred to present them was characteristic. As in his Inaugural Address, he showed skill in selecting popular ground.

“There is reasonable ground of confidence,” he said, “that we may now safely dispense with all the internal taxes, . . . and that the remaining sources of revenue will be sufficient to provide for the support of government, to pay the interest on the public debts, and to discharge the principals within shorter periods than the laws or the general expectation had contemplated. War, indeed, and untoward events may change this prospect of things, and call for expenses which the imposts could not meet; but sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasure for wars to happen we know not when, and which might not perhaps happen but from the temptations offered by that treasure.”

Assuming that “the States themselves have principal care of our persons, our property, and our reputation, constituting the great field of human concerns,” the Message maintained that the general government was unnecessarily complicated and expensive, and that its work could be better performed at a smaller cost.

“Considering the general tendency,” it said, “to multiply offices and dependencies, and to increase expense to

the ultimate term of burden which the citizen can bear, it behooves us to avail ourselves of every occasion which presents itself for taking off the surcharge, that it never may be seen here that, after leaving to labor the smallest portion of its earnings on which it can subsist, government shall itself consume the residue of what it was instituted to guard."

No one could deny that these sentiments were likely to please a majority of citizens, and that they announced principles of government which, if not new, were seldom or never put into practice on a great scale. As usual in such cases, the objections came from the two classes who stood at the extremes of the political movement. The Federalists denied that they had ever asked "to accumulate treasures for wars." They asked for cannon and muskets in the armories; for timber and ship-stores in the navy-yards; for fortifications to defend New York, and for readiness to resist attack. Gallatin's economies turned on the question whether the national debt or the risk of foreign aggression were most dangerous to America. Freedom from debt and the taxation which debt entailed was his object, not in order to save money, but to prevent corruption. He was ready to risk every other danger for the short time required. "Eight years hence," he afterward wrote,<sup>1</sup> "we shall, I trust, be able to assume a different tone; but our exertions at present consume the seeds of our greatness, and retard to an indefinite time the epoch

<sup>1</sup> Gallatin to Jefferson, Aug. 16, 1802; Works, i. 88.



of our strength." The epoch of strength once reached, Gallatin had no objection to tax, and tax freely, for any good purpose, even including ships-of-the-line. "Although I have been desirous," he wrote some four years later,<sup>1</sup> "that the measure might at least be postponed, I have had no doubt for a long time that the United States would ultimately have a navy." Nothing in his political theories prevented his spending money on defensive armaments or internal improvements or any other honest object, provided he had the money to spend.

The Federalists disagreed with Gallatin rather on a question of fact than of principle. They asserted that the country could not safely disarm; Gallatin, on the other hand, thought that for a few years military helplessness might be risked without too much danger. Time could alone decide which opinion was correct; but in this issue the Federalists could see no suggestion such as Jefferson made, that "sound principles will not justify our taxing the industry of our fellow-citizens to accumulate treasures for wars to happen we know not when." If this was the true principle of government, and if the hands of Congress were to be tied so fast that no provision could ever be made for national defence except in actual presence of war, this "sound principle" should have been announced, according to Federalist theories, not as a detail of administration but as a constitutional amendment.

<sup>1</sup> Gallatin to Jefferson, Sept. 12, 1805; Works, i. 253.

In this opinion the true Virginia school probably concurred. Economy for its own sake was not the chief object of that class of men, and any reform on such narrow ground was not wholly to their taste. Even they were well aware at the moments when they complained most of extravagance that the United States, compared with any powerful European government, had always been a model of economy, — and indeed the most obvious criticism of the system was that economy had been its only extravagance. In the year 1800, when expenses were swollen to their highest point, in consequence of a *quasi* war with France, the disbursements reached about \$11,500,000, of which the sum of \$4,578,000 was on account of public debt. The running expenses of the government, including the creation of an army and a navy, did not then exceed \$7,000,000, or about \$1.30 a head to each inhabitant. The average annual expenditure for the past ten years had been about \$9,000,000, — a smaller sum than Jefferson ever succeeded in spending. This example of economy was enough to strike the imagination of any observer; and still greater parsimony, even though it should reduce the running expenses by one half, could do no more than strengthen the same impression, or at most create an idea that republican government was too economical for its own safety. This was no revolution such as the Virginians wished to effect. They aimed at restricting power even more than at relieving taxation.

The Message put economy in the place of principle in dealing with patronage, while in regard to constitutional powers it ignored the existence of a problem. In this silence, which for the first time since 1787 fell on the lips of those who had hitherto shown only jealousy of government; in this alacrity with which Republicans grasped the powers which had, as they affirmed, made "monocrats" of their old opponents,—a European would have seen the cynicism of conscious selfishness. Certain phrases in the Constitution had been shown by experience to be full of perils, and were so well established by precedent in their dangerous meaning as to be susceptible only of excision. The clause which gave Congress sweeping power to make all laws which a majority might think "necessary and proper" for carrying the Constitution into effect, was, as settled by precedents, fatal not only to the theory of State-rights, but to the doctrine of strict construction on which American liberties were supposed to rest. The war and treaty making powers, with their undefined and therefore unlimited consequences, were well understood. These loopholes for the admission of European sovereignty into the citadel of American liberty were seen in 1800 as clearly as when the children and grandchildren of the Southern statesmen broke up the Union because they feared the consequences of centralization. Yet Jefferson called no man's attention to the danger, took no step toward averting it, but stretched out his hand to seize the powers he had denounced.

Even in regard to the Judiciary, the most dangerous part of the system, he recommended no legislation but for the apparent purpose of saving money.

“The judiciary system of the United States,” continued the Message, “and especially that portion of it recently erected, will of course present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the Courts, and of those which were depending when additional Courts and Judges were brought in to their aid.”

That he should have shown no anxiety to limit the vague powers of Legislature and Executive was less surprising, because these powers were henceforward to remain in the hands of his own party; but the Judiciary was in the hands of Federalists, whose constitutional theories were centralization itself. The essence of Virginia republicanism lay in a single maxim: **THE GOVERNMENT SHALL NOT BE THE FINAL JUDGE OF ITS OWN POWERS.** The liberties of America, as the Republican party believed, rested in this nutshell; for if the Government, either in its legislative, executive, or judicial departments, or in any combination of them, could define its own powers in the last resort, then its will, and not the letter of the Constitution, was law. To this axiom of republicanism the Federalist Judiciary opposed what amounted to a flat

negative. Chief-Justice Marshall and his colleagues meant to interpret the Constitution as seemed to them right, and they admitted no appeal from their decision.

The question how to deal with the Judiciary was, therefore, the only revolutionary issue before the people to be met or abandoned ; and if abandoned then, it must be forever. No party could claim the right to ignore its principles at will, or imagine that theories once dropped could be resumed with equal chance of success. If the revolution of 1800 was to endure, it must control the Supreme Court. The object might be reached by constitutional amendment, by impeachment, or by increasing the number of judges. Every necessary power could be gained by inserting into the United States Constitution the words of the Constitution of Massachusetts, borrowed from English constitutional practice, that judges might be removed by the President on address by both Houses of the Legislature. Federalists were certain to denounce both object and means as revolutionary and dangerous to public repose ; but such an objection could carry little weight with men who believed themselves to have gained power for no other purpose than to alter, as Jefferson claimed, the principles of government. Serious statesmen could hardly expect to make a revolution that should not be revolutionary.

Had Jefferson overlooked the danger, costly as the oversight was, it might cause no surprise ; but he

perceived it clearly, and in private denounced it with as much keenness as though he already knew what was to be judged "necessary and proper" for the purposes of a government which, as Virginians foresaw, would in the end interpret its own powers. "They have retired into the Judiciary as a stronghold," cried he in the same breath with which he talked to Congress only of economy.<sup>1</sup> "There the remains of federalism are to be preserved and fed from the Treasury; and from that battery all the works of republicanism are to be beaten down and erased." Some twenty years afterward Jefferson awoke to see his prophecy come true, and he then threw responsibility on the Constitution.

"The nation declared its will," he said,<sup>2</sup> "by dismissing functionaries of one principle and electing those of another in the two branches, executive and legislative, submitted to their election. Over the judiciary department the Constitution had deprived them of their control. That, therefore, has continued the reprobated system; and although new matter has occasionally been incorporated into the old, yet the leaven of the old mass seems to assimilate to itself the new; and after twenty years' confirmation of the federated system by the voice of the nation, declared through the medium of elections, we find the Judiciary, on every occasion, still driving us into consolidation."

Such was the fact; and when Jefferson spoke of "the leaven of the old mass," he meant Chief-Justice

<sup>1</sup> Jefferson to J. Dickinson, Dec. 19, 1801; Works, iv. 424.

<sup>2</sup> Jefferson to Roane, Sept. 6, 1819; Works, vii. 133.



Marshall, who had won a slow, certain victory over State-rights, and had thrust powers on the national government which, if Jefferson were right, must end in corrupting and destroying it. Whose was the fault? Was it true that the Constitution deprived the people of their control over the Judiciary? Even if it were so, did not Jefferson for years control with autocratic power the strength necessary for altering the Constitution? When at last, four years before his death, the impending certainty of defeat forced itself on Jefferson's mind, he made what amounted to a confession of his oversight, and withdrew the apology which threw blame on the Constitution: "Before the canker is become inveterate, — before its venom has reached so much of the body politic as to get beyond control, — remedy should be applied. Let the future appointments of judges be for four or six years, and renewable by the President and Senate."<sup>1</sup> If this could be done, as his words implied, in 1822 under the Presidency of James Monroe, when J. Q. Adams, Calhoun, Clay, and Andrew Jackson were each in his own way laboring to consolidate a nation still hot with the enthusiasm of foreign war, why was it not attempted in 1801, when a word from Jefferson would have decided the action of his party?

If this were all, some explanation of the President's silence might be offered; for in 1801–1802 his majority in the Senate was small, and only a political leader as bold as Andrew Jackson would have dared

<sup>1</sup> Jefferson to W. T. Barry, July 2, 1822; Works, vii. 256.

to risk his popularity on such a venture. The judges held office for life; the Constitution required for amendment two thirds of the Senate and three fourths of the States; any violent shock might have thrown Connecticut and Massachusetts into open secession; but these objections to a revolution in constitutional law did not apply to partisan Federalist legislation. Why did not Jefferson officially invite Congress to confirm the action of Virginia and Kentucky by declaring the Alien and Sedition Laws to be unconstitutional and null as legislative precedents? In the absence of such a declaratory act, the Republican party left on the statute book the precedent established by those laws, which had expired only by limitation. Had the Alien and Sedition Laws been alone in dispute, the negligence might have seemed accidental; but the statute-book contained another Federalist law, aimed against States-rights, which had roused alarm on that account. The Judiciary Act of 1789, the triumph of Federalist centralization, had conferred on the Supreme Court jurisdiction over the final judgment of State courts in cases where the powers of the general government had been "drawn in question" and the decision was unfavorable to them. This concession of power to the Supreme Court, — a concession often alleged to be more dangerous to the States than the "necessary and proper" clause itself, — was believed to be dictated by a wish to make the State judiciaries inferior courts of the central government, because the

powers of the general government might be "drawn in question" in many ways and on many occasions, and thus the authority of the State courts made contemptible. Chief-Justice Marshall achieved one of his greatest triumphs by causing Judge Story, a republican raised to the bench in 1811 for the purpose of contesting his authority, to pronounce in 1816 the opinion of the court in the case of *Martin vs. Hunter's Lessee*, by which the Virginia Court of Appeals was overruled upon the question of constitutionality raised by the State court in regard to Section 25 of the Judiciary Act. Such a result would hardly have happened had the Republicans in 1801 revised the laws which they considered unconstitutional; but with what propriety could Virginia in 1816 assert the unconstitutionality of a law which she had for fifteen years possessed the power to repeal, without making an attempt or expressing a wish to exercise it?

Whatever was the true cause of the inaction, it was certainly intentional. President Jefferson wished to overthrow the Federalists and annihilate the last opposition before attempting radical reforms. Confident that States-rights were safe in his hands, he saw no occasion to alarm the people with legislation directed against past rather than future dangers. His party acquiesced, but not without misgivings. John Taylor of Caroline, most consistent of the States-rights school, thought that reforms should have been made. John Randolph, eight years

afterward, expressed his opinion with characteristic frankness:—

“ You know very well,” he said,<sup>1</sup> addressing Speaker Varnum, “ that there were many of us, and I was one, who thought that at the commencement of Mr. Jefferson’s administration it would be proper for us to pass a sort of declaratory Act on the subject of the Sedition Law ; . . . but on this subject, as well as the reduction of the army below its then standard, as on some others, I had the honor, or dishonor as some might esteem it, to be in the minority. I had thought that we ought to have returned the fines of all those who suffered under the law ; . . . but you know that it was said that we came in as reformers ; that we should not do too much ; that we should go on little by little ; that we should fire minute-guns, I think was the expression, — which produced no other effect, that I ever found, than the keeping up a spirit of irritation.”

Speaker Macon, Joseph Nicholson, and William B. Giles were probably among those who held the same opinion, and were overruled by the Northern democrats. They never quite forgave Madison, to whose semi-Federalist influence they ascribed all Jefferson’s sins. Distrust of Madison was natural, for neither Virginian nor New Englander understood how Madison framed the Constitution and wrote the “ Federalist ” with the same hand which drafted the Virginia Resolutions of 1798 ; but Jefferson himself would have been last to admit the correctness of such an explanation. He could point to the sentence of his

<sup>1</sup> Annals of Congress, May 25, 1809. XI. Congress, Part I. 87.

Inaugural Address which pledged him to "the preservation of the general government in its whole constitutional vigor." If in redeeming the pledge he preserved vigor that his friends deemed unconstitutional, his own habits of mind, not Madison's semi-Federalist tendencies, explained the error.

Another reason partly accounted for the President's silence. In theory the Executive received its instructions from the Legislature. Upon no point had the Republican party, when in opposition, laid more stress than on the necessity of reducing Executive influence. President Washington's personal authority, even more than the supposed monarchical tendencies of his successor, inspired anger, if not terror, in the minds of his opponents. Jefferson wished to avoid this error, and to restore the true constitutional theory to its place in practice. His recommendations were studiously restrained, and the Federalists were so far silenced that they could only say with Chief-Justice Marshall, "By weakening the office of President, he will increase his personal power." The concluding sentences of the Message expressed in a few words the two leading ideas which Jefferson wished most to impress on the people,—his abnegation of power and his wish for harmony:—

"Nothing shall be wanting on my part to inform, as far as in my power, the legislative judgment, nor to carry that judgment into faithful execution. The prudence and temperance of your discussions will promote, within your own walls, that conciliation which so much

befriends rational conclusion, and by its example will encourage among our constituents that progress of opinion which is tending to unite them in object and in will. That all should be satisfied with any one order of things is not to be expected, but I indulge the pleasing persuasion that the great body of our citizens will cordially concur in honest and disinterested efforts, which have for their object to preserve the General and State governments in their constitutional form and equilibrium; to maintain peace abroad, and order and obedience to the laws at home; to establish principles and practices of administration favorable to the security of liberty and property, and to reduce expenses to what is necessary for the useful purposes of government."



## CHAPTER X.

HONEST as Jefferson undoubtedly was in his wish to diminish executive influence, the task was beyond his powers. In ability and in energy the Executive overshadowed Congress, where the Republican party, though strong in numbers and discipline, was so weak in leadership, especially among the Northern democrats, that the weakness almost amounted to helplessness. Of one hundred and five members, thirty-six were Federalists; of the sixty-nine Republicans, some thirty were Northern men, from whom the Administration could expect little more than votes. Boston sent Dr. Eustis; from New York came Dr. Samuel L. Mitchill, — new members both; but two physicians, or even two professors, were hardly competent to take the place of leaders in the House, or to wield much influence outside. The older Northern members were for the most part men of that respectable mediocrity which followed where others led. The typical Northern democrat of that day was a man disqualified for great distinction by his want of the habits of leadership; he was obliged, in spite of his principles, to accept the guidance of aristocrats like the Livingstons, Clintons, and Burrs, or like

Gallatin, Jefferson, John Randolph, and the Smiths, because he had never been used to command, and could not write or speak with perfect confidence in his spelling and grammar, or enter a room without awkwardness. He found himself ill at ease at the President's dinner-table; he could talk only upon subjects connected with his district, and he could not readily accustom himself to the scale of national affairs. Such men were thrust aside with more or less civility by their leaders, partly because they were timid, but chiefly because they were unable to combine under the lead of one among themselves. The moment true democrats produced a leader of their own, they gave him the power inherent in leadership, and by virtue of this power he became an aristocrat, was admitted into the circle of Randolphs and Clintons, and soon retired to an executive office, a custom-house or a marshalship; while the never-failing succession of democratic Congressmen from the North continued to act as before at the command of some aristocratic Virginian or educated gentleman from the city of New York.

Owing to this peculiarity, the Northern democrats were and always remained, in their organization as a party, better disciplined than their opponents. Controlling the political power of New York, New Jersey, and Pennsylvania, they wielded it as they were bid. Their influence was not that of individuality, but of mass; they affected government strongly and permanently, but not consciously; their steady attraction

served to deflect the Virginia compass several degrees from its supposed bearings; but this attraction was commonly mechanical. Jefferson might honestly strip himself of patronage, and abandon the receptions of other Presidents; he might ride every day on horse-back to the Capitol in "overalls of corduroy, faded, by frequent immersions in soapsuds, from yellow to a dull white," and hitch his horse in the shed,—he alone wielded power. The only counterpoise to his authority was to be found among his Southern equals and aristocratic Northern allies, whose vantage-ground was in the United States Senate or at the head of State governments; but the machinery of faction was not yet well understood. In the three former Administrations, the House had been the most powerful part of the body politic, and the House was ill-suited for factious purposes. The Senate was not yet a favorite place for party leaders to fortify themselves in power; its debates were rarely reported, and a public man who quitted the House for the Senate was thrown into the background rather than into prominence. In 1803 De Witt Clinton resigned a seat there in order to become mayor of New York. In the same year Theodorus Bailey resigned the other seat, in order to become postmaster of New York, leaving the State unrepresented. While senators had not yet learned their power, representatives were restrained by party discipline, which could be defied only by men so strong as to resist unpopularity. As long as this situation lasted, Jefferson could not escape

the exercise of executive influence even greater than that which he had blamed in his predecessors.

The House chose for Speaker Nathaniel Macon, a typical, homespun planter, honest and simple, erring more often in his grammar and spelling than in his moral principles, but knowing little of the world beyond the borders of Carolina. No man in American history left a better name than Macon; but the name was all he left. An ideal Southern republican, independent, unambitious, free from intrigue, true to his convictions, a kindly and honorable man, his influence with President Jefferson was not so great as that of some less respectable and more busy politicians.

The oldest members of much authority were William B. Giles of Virginia, and Samuel Smith of Maryland. In the characters of both these men was something which, in spite of long service and fair abilities, kept them subordinate. Whether on account of indolence or temper, restlessness or intrigue, they seldom commanded the full weight to which their service entitled them. Speaker Macon, in appointing his standing committees, passed over both in order to bring forward a young favorite of his own,—a Virginian barely twenty-eight years old, whose natural quickness of mind and faculty for ready speaking gave him prominence in a body of men so little marked by ability as was the Seventh Congress. During several years the Federalist newspapers never wearied of gibing at the long lean figure, the shrill voice and beardless face of the boyish Republican

leader, among whose peculiarities of mind and person common shrewishness seemed often to get the better of intense masculine pride. Besides his natural abilities and his superior education, the young man had the advantage of belonging to the most widely-connected of all Virginia families; and this social distinction counted for everything in a party which, although reviled as democratic, would be led by no man without birth and training. Incomprehensible to New England Federalists, who looked on him as a freak of Nature; obnoxious to Northern democrats, who groaned in secret under his insane spur and curb; especially exasperating to those Southern Republicans whose political morality or whose manners did not suit him, — Randolph, by his independence, courage, wit, sarcasm, and extreme political orthodoxy, commanded strong influence among the best Virginians of the States-rights school. More than half the Virginia delegation belonged to the same social and political caste; but none of them could express so well as Randolph the mixture of contradictory theories, the breadth and narrowness, the aspirations and ignorance, the genius and prejudices of Virginia.

The experiment of placing Randolph at the head of the Ways and Means Committee was hazardous; and to support him the Speaker put as second member their friend Joseph Nicholson of Maryland, while General Smith retained his old place at the head of the Committee on Commerce, and Giles was quite

neglected. The Federalists even in their reduced condition, numbering barely one third of the House, still overmatched the majority in debate. Randolph, Nicholson, Samuel Smith, and Giles were hardly equal to Bayard, Griswold, Dana, John Cotton Smith, and John Rutledge.

No member of the House wielded serious influence over the President, or represented with authority the intentions of the party; and although in the Senate the Republicans were stronger in ability, they were weaker in numbers, and therefore more inclined to timidity. The ablest of the Republican senators was a new man, John Breckinridge of Kentucky, another Virginia aristocrat, chiefly known as the putative father of the Kentucky Resolutions of 1798. Breckinridge was bold enough to support any policy that the Administration would consent to impose; but he was new to the Senate, and, like Randolph, had yet to win the authority of a leader against a strong Federalist opposition.

The business of the first session of the Seventh Congress quickly took shape in two party struggles on the lines marked out by the Message; and the same caution which made the Message disappointing as a declaration of principles, affected the debates and laws. Although the Federalists offered challenge after challenge, charging the majority with revolutionary schemes which no honest democrat needed to deny, the Republicans, abiding carefully for the most part within the defences selected by the Presi-



dent, seemed unwilling to avow the legitimate objects of their acts. The two measures over which the struggle took place were not so important as to touch the foundations of government, unless they were parts of more sweeping changes to come. They required the overthrow of two Federalist creations, but not expressly of any Federalist principle. They abolished the internal taxes and the circuit courts, but touched no vital power of government.

Resistance to the abolition of taxes was impossible after the promise which the President's Message held out. The Federalists themselves had made peace with France, and hostilities between France and England had ceased. For the first time in ten years no danger of foreign war was apparent, and if the Administration offered to effect economies in the public service, Congress could hardly deny that economies were possible. The opposition preferred not to question the estimates, but to rival the Government in zeal for reduction of taxes; and on this point they argued with some force that although the *ad valorem* duties were low,—averaging about thirteen per cent,—the specific duties on necessities of life like salt and sugar, tea and coffee, amounted to fifty and a hundred per cent; and reduction of these would surely give more relief than would be afforded by repealing the tax on whiskey,—a proper object of taxation,—or the stamp-duty, which was one of the best and cheapest taxes on the list. The majority replied that to abolish the internal revenue

system was to diminish by one half the Executive patronage. Forcible as this reasoning was, it did not convince the Federalist leaders in the House, who insisted upon moving amendments. The majority became irritated; a Kentucky member advised that the Federalists should be left unanswered, and their motions voted down. A Republican caucus decided to adopt for a time this course; and the next day, Jan. 25, 1802, when a New York Federalist called for returns in regard to the stamp-tax, the House by a vote of fifty-four to thirty-four bluntly refused the information. Such motions were usually adopted by courtesy, and the Federalists, in their twelve years of rule, were rarely accused of a course so high-handed as that of the new majority. James A. Bayard, of Delaware, who led the Federalists, instantly called up another motion of the same class. After he had spoken in its favor, John Randolph rose and ordered the clerk to read an extract from Gallatin's report. No other reply was offered. One Federalist member after another remonstrated against this tyranny of silence; but not a member of the majority spoke, and the returns were refused by a vote of fifty-seven to thirty-seven. Immediately John Rutledge called up a third resolution of the same nature, and Samuel Dana of Connecticut made a sensation long remembered, by quoting to the majority the remark, then quite new, of Bonaparte to Sieyès: "That dumb legislature will immortalize your name."

Neither in the Senate nor in the House did Gallatin's financial schemes meet with serious question; they were accepted without change, and embodied in legislation evidently the work of the secretary's own hand. So cautious was Gallatin, that notwithstanding the assertions of the President's Message, he would not make himself responsible for the repeal of internal taxes, but left his colleagues of the War and Navy to pledge themselves to John Randolph for economies to the amount of \$600,000, which the event proved to be not wholly practicable. Dearborn and Robert Smith in good faith gave to Randolph the required pledges, and Congress gladly acted upon them. The internal taxes were swept away, and with them one half the government patronage; while a sinking fund was organized, by means of which the public debt, amounting to a nominal capital of about \$80,000,000, was to be paid off in sixteen years.

This financial legislation was the sum of what was accomplished by Congress toward positive reform. The whole of Jefferson's theory of internal politics, so far as it was embodied in law, rested in the Act making an annual appropriation of \$7,300,000 for paying interest and capital of the public debt; and in the Act for repealing the internal taxes. In these two measures must be sought the foundation for his system of politics abroad and at home, as this system has been described; for his policy flowed in a necessary channel as soon as these measures were adopted.

Great as the change was which under the guise of economy Congress thus quietly effected,—a change which in Jefferson's intention was to substitute commercial restrictions in the place of armaments, for purposes of national defence,—so skilfully was it done that the Federalists could muster only twenty-four votes against it. Jefferson succeeded in carrying his preliminary measures through Congress without meeting, or even raising, the question of their ultimate objects and practical scope; but this manner of dealing with a free people had disadvantages, for it caused them to adopt a system which they did not wholly understand, and were not fully prepared to carry out. A few Virginians knew what Jefferson meant; a clique of members in the House and Senate might have foretold every step in the movement of Government: but the Northern and Western democrats thought only of economy, and accepted the President's partial reasoning as sufficient; while the Federalists, although they saw the truth more clearly, could not oblige the Administration to enter into a full and candid discussion, which, without affecting the result, would have educated the public and saved much misunderstanding in the future.

The Federalists, left to an issue involving mere details of taxation, wasted their strength on a subordinate point. Perhaps their exertions were not wholly wasted, for their outcries may have had some effect in persuading the majority that the new reforms were extreme; but in reality the opposition resisted

feebly the vital financial scheme, and exerted all its energies against the second and less serious Administration measure,—the repeal of the Judiciary Act of 1801.

The previous history of the Judiciary Act belonged to the administration of Jefferson's predecessor and to the records of the Federalist party. Before 1801 the Supreme Court consisted of six justices, who held two terms a year at Washington, and twice a year rode their circuits, each justice then sitting in association with a district judge. The system pleased no one. The justices, men of age and dignity, complained that they were forced twice a year, in the most trying seasons and through the roughest country, to ride hundreds of miles on horseback "with the agility of post-boys;" the lawyers found fault because the errors of the inferior court were corrected by the judges who had made them; the suitors were annoyed by the delays and accidents inevitable to such journeys and such judges. In the last year of Federalist power a new arrangement was made, and the Judiciary Act of 1801 reduced the Supreme Court to five judges, who were fixed at Washington, while their circuit duties were transferred to a new class of circuit judges, eighteen in number. Twenty-three districts were divided into six circuits, and the circuit judges sat independently of the district judges, as well as of the Supreme Bench. This separation of the machinery of the District, Circuit, and Supreme Courts caused a multiplication of judicial offices and

an increased annual expense of some thirty thousand dollars.

No sooner did this Bill become law, Feb. 13, 1801, than the Federalists used their last moments of power to establish themselves in the posts it created. In Jefferson's words, they retreated into the Judiciary as a stronghold. They filled the new courts as well as the vacancies on the old bench with safe men, at whose head, as Chief-Justice of the Supreme Court, was placed the Secretary of State, John Marshall. That Jefferson should have been angry at this manœuvre was natural ; but, apart from greed for patronage, the Federalists felt bound to exclude Republicans from the bench, to prevent the overthrow of those legal principles in which, as they believed, national safety dwelt. Jefferson understood the challenge, and was obliged to accept or decline it.

On one ground alone could the President and his party fully meet the issue thus offered. They had sought and won popularity on the principle of States-rights. The Judiciary Act of 1789, even more than its supplement of 1801, was notoriously intended to work against the object they had most at heart. The effect of both these Acts was, in their belief, to weaken the State judiciaries and to elevate the national judiciary at their expense, until the national courts should draw to themselves all litigation of importance, leaving the State courts without character or credit. From their point of view, the whole judiciary system should be remodelled, with the purpose



of reversing this centralizing movement; and that such a reform must begin with the Supreme Court was too evident for discussion. The true question for Congress to consider was not so much the repeal of the Judiciary Act of 1801, as the revision of that which had set in motion the whole centripetal machine in 1789.

Jefferson's Message, as has been shown, offered to Congress an issue quite different, at least in appearance.

"The judiciary system of the United States," — so his words ran, — "and especially that portion of it recently erected, will of course present itself to the contemplation of Congress; and that they may be able to judge of the proportion which the institution bears to the business it has to perform, I have caused to be procured from the several States, and now lay before Congress, an exact statement of all the causes decided since the first establishment of the courts, and of those which were depending when additional courts and judges were brought in to their aid."

From the true Virginia standpoint, the fewer the causes the less danger. What the Virginians feared most was the flow of business to the national courts; and Jefferson's statistics tended only to show that as yet the new courts had done no harm, inasmuch as they had little to do. Their abolition on the ground of economy would still leave the Judiciary establishment of 1789 untouched, merely in order to lop off an excrescence which might be restored whenever

increase of business should require it,—and which Jefferson's argument in a manner pledged him in such an event to re-establish.

The contradictions in Jefferson's character have always rendered it a fascinating study. Excepting his rival Alexander Hamilton, no American has been the object of estimates so widely differing and so difficult to reconcile. Almost every other American statesman might be described in a parenthesis. A few broad strokes of the brush would paint the portraits of all the early Presidents with this exception, and a few more strokes would answer for any member of their many cabinets; but Jefferson could be painted only touch by touch, with a fine pencil, and the perfection of the likeness depended upon the shifting and uncertain flicker of its semi-transparent shadows. Of all the politicians and writers of that day, none could draw portraits with a sharper outline than Hamilton, whose clear-cut characterizations never failed to fix themselves in the memory as distinctly as his own penetrating features were fixed in Ceracchi's marble or on Trumbull's canvas; and Hamilton's contrasted portraits of Jefferson and Burr, drawn in an often-quoted letter written to Bayard in January, 1801, painted what he believed to be the shifting phase of Jefferson's nature.

“Nor is it true,” he said,<sup>1</sup> “that Jefferson is zealot enough to do anything in pursuance of his principles

<sup>1</sup> Hamilton to Bayard, Jan. 15, 1801; Hamilton's Works, vi. 419.

which will contravene his popularity or his interest. He is as likely as any man I know to temporize, to calculate what will be likely to promote his own reputation and advantage; and the probable result of such a temper is the preservation of systems, though originally opposed, which, being once established, could not be overturned without danger to the person who did it. To my mind, a true estimate of Mr. Jefferson's character warrants the expectation of a temporizing rather than a violent system."

Never was a prophecy more quickly realized. Jefferson's suggestion that the new Judiciary was unnecessary because it had not enough business to keep it fully employed, although by implication admitting that more business would justify its creation, became at once the doctrine of his party. Jan. 8, 1802, Breckenridge undertook the task of moving in the Senate the repeal of the Act; and his argument closely followed the President's suggestion, that the new courts, being unnecessary and therefore improper, might and should be abolished. The Federalists took the ground that the Constitution secured to the judges their office during good behavior, and that to destroy the office was as distinct a violation of the compact as to remove the judge. Thus from the beginning the debate was narrowed to a technical issue. On the one side was seen an incessant effort to avoid the broader issues which the Federalists tried to force; on the other side, a certain dramatic folding of robes, a theatrical declamation over the

lay-figure which Federalists chose to declare a mangled and bleeding Constitution. Gouverneur Morris of New York, whose oratory was apt to verge on the domain of melodrama, exceeded himself in lamentations over the grave of the Constitution : —

“ Cast not away this only anchor of our safety. I have seen its progress. I know the difficulties through which it was obtained. I stand in the presence of Almighty God and of the world, and I declare to you that if you lose this charter, never, no, never will you get another ! We are now, perhaps, arrived at the parting point. Here, even here, we stand on the brink of fate. Pause ! pause ! For Heaven’s sake, pause ! ”

If ever a party had paused, it was the Republicans. The progress of what Gouverneur Morris, with characteristic rhetoric, called the “ anchor,” was thus far arrested only in appearance ; and there were already symptoms that the Virginians had reached not only the limit of their supposed revolutionary projects, but also of their influence, and that they were themselves anxious to go no farther. Signs of trouble appeared among the Northern democrats, and sharp hints were given that the Virginians might expect revolt, not so much against their principles as against their patronage. Vice-President Burr did not appear in Washington until six weeks of the session had passed ; and when he took the chair of the Senate, Jan. 15, 1802, the Virginians had every reason to expect that he would show them no kindness. Under the affected polish and quiet of his manner, he nursed as

bitter a hatred as his superficial temper could feel against the whole Virginia oligarchy. Any suggestion that Burr held scruples of conscience in regard to the Federalist judiciary would border on satire, for Burr's conscience was as elastic as his temper; but he made grave inquiries as to the law, and hinted doubts calculated to alarm the Virginians. Had he been content to affect statesmanship, Breckinridge could have afforded to ignore his demonstrations; but the behavior of General Armstrong, the democratic senator from New York, and the accidental absence of Senator Bradley of Vermont unexpectedly threw into Burr's hands the power to do mischief. Armstrong failed to appear at Washington, and his vote was lost. Breckinridge's motion for a committee of inquiry was carried, January 19, only by fifteen against thirteen votes; and no sooner had his committee, with all practicable speed, reported a Bill for the repeal of the Judiciary Act of 1801, than it appeared that the Senate was tied, fifteen to fifteen, with Armstrong and Bradley absent, and the Vice-President controlling the fate of the Bill. Burr lost no time in giving a first warning to the Virginians. Dayton of New Jersey, a Federalist, but an intimate friend of the Vice-President, moved January 27 to recommit the Bill to a select committee, and Burr's casting vote carried the motion.

That Breckinridge and his friends were angry at this check need not be said; but they were forced to wait several days for Bradley's return, before

Breckinridge could move and obtain, February 2, the discharge of the special committee, and recover control of the Bill. Burr was never given another opportunity to annoy his party by using his casting vote; but meanwhile symptoms of hesitation appeared among the Northern democrats, even more significant than the open insubordination of Burr. On the day when Breckinridge succeeded in discharging the special committee, Senator Ross of Pennsylvania presented a memorial from the Philadelphia Bar, declaring their conviction that the actual Circuit Court was a valuable institution, which could not be abolished without great public inconvenience; and this memorial was enforced by a letter in strong terms, signed by A. J. Dallas, Jefferson's own district attorney, and by the Republican Attorney-General of Pennsylvania, Governor McKean's son. The behavior of Senator Armstrong raised a fear that the Livingstons were not to be depended upon; and hardly had the Bill passed the Senate, February 3, by a vote of sixteen to fifteen, than Armstrong resigned his post in order to let De Witt Clinton take it. In the House, Dr. Eustis of Boston, alone among the Republicans, opposed the repeal; but the tone of the debate and of the press showed that few Northern democrats cared to risk the odium of a genuine assault on the authority of the Supreme Court.

Another and still sharper hint was soon given to the Virginians. At the moment when the Bill coming before the House roused there an acrimonious



debate, in which the Federalists assumed a tone that exasperated and alarmed their opponents, the anniversary of Washington's birthday occurred. The Federalist Congressmen were accustomed to give, February 22, what was called a banquet, — a practice which verged so closely on monarchism that Jefferson made a secret of his own birthday, for fear that his followers should be misled by the example into making him a monocrat against his will. Either at Burr's secret instigation, or in a spirit of mischief, the Federalists this year, on the pretence that they had voted for Burr as President only a year before, invited him to their banquet.

“We knew,” wrote Bayard to Hamilton,<sup>1</sup> “the impression which the coincidence of circumstances would make upon a certain great personage; how readily that impression would be communicated to the proud and aspiring lords of the Ancient Dominion; and we have not been mistaken as to the jealousy we expected it would excite through the party.”

In the middle of the feast the door opened, and the Vice-President, courteous and calm as though he were taking the chair of the Senate, entered and took a seat of honor at the table. His appearance was expected, and roused no surprise; but to the startled amusement of the Federalists he presently rose and pronounced a toast: “The union of all honest men!”

<sup>1</sup> Bayard to Hamilton, April 12, 1802; Hamilton's Works, vi. 539.

This dramatic insult, thus flung in the face of the President and his Virginia friends, was the more significant to them because they alone understood what it meant. To the world at large the toast might seem innocent; but the Virginians had reason to know that Burr believed himself to have been twice betrayed by them, and that his union of honest men was meant to gibbet them as scoundrels. They had no choice but to resent it. Henceforward the party could not contain both him and them. Within a few days De Witt Clinton's newspaper, the "American Citizen," began the attack, and its editor Cheetham henceforward pursued Burr with a vindictiveness which perplexed and divided the Northern democrats, who had no great confidence in Clinton. What was of far more consequence, Duane and the Philadelphia "Aurora," after a moment's hesitation, joined in the hue-and-cry.

## CHAPTER XI.

THE Bill repealing the new Judiciary Act, having passed the Senate, February 3, was taken into consideration by the House, in Committee of the Whole, February 4, and caused the chief debate of the session. By common consent Giles and Bayard were accepted as the champions of the two parties, and their speeches were taken as the official arguments on either side. The men were equal to their tasks. For ten years William Branch Giles had been the most active leader of the extreme Republicans. A Virginian, born in 1762, he began his career as a Member of Congress in 1791, by opposing the creation of a national bank. In 1793 he distinguished himself by an attack on Secretary Hamilton, charging him with speculation. In 1796 he led the opposition to Jay's Treaty. After opposing Washington's administration with consistency and severity during six years, he retired from Congress in 1798 in order to oppose Washington's successor with more effect in the legislature of Virginia. With James Madison, John Taylor of Caroline, and Wilson Cary Nicholas, he had taken an active part in the Resolutions of 1798, and his remarks in the debate of December, 1798, showed that he carried the extreme conclusions

of the Virginia school to their extreme practical consequences.<sup>1</sup> He "said that the measures of our present government tended to the establishment of monarchy, limited or absolute. . . . If . . . the government were a social compact, he pronounced monarchy to be near at hand, the symptoms and causes of which he particularly pointed out; and concluded that the State legislatures alone, at this time, prevented monarchy." In language perfectly intelligible to his friends he hinted that his party "had no arms, but they would find arms." Even men naturally benevolent, like Jefferson, could rarely resist the conviction that the objects of political opponents were criminal, but Giles exceeded every prominent partisan on either side by the severity of his imputations. As late as June, 1801, he wrote from Richmond to President Jefferson:<sup>2</sup> "The ejected party is now almost universally considered as having been employed, in conjunction with Great Britain, in a scheme for the total destruction of the liberties of the people." No man in the Union was more cordially detested by the Federalists; and even between parties that held each other in little or no respect, few men of so much eminence were so little respected as Giles. The dislike and distrust were mutual. Giles's nature was capable of no pleasure greater than that of exasper-

<sup>1</sup> The Virginia Report of 1799-1800, etc. Richmond, 1850, pp. 143-148.

<sup>2</sup> Giles to Jefferson, June 1, 1801. Hamilton's History, vii. 585 n.

ating his Federalist opponents; and he rarely enjoyed a better opportunity for irritation than on Feb. 18, 1802, when, with a great majority behind him, and with the consciousness of triumph attained, he broke into the dull debate on the Judiciary Bill.

Both sides were weary of the narrow question whether Congress had the power to remove Judges by legislation. Whether such a power existed or not, every one knew that the Republican majority meant to use it, and the Federalists were chiefly anxious to profit by the odium they could attach to its abuse. The Federalists, in a character new to them, posed as the defenders of the Constitution against sacrilegious attacks; while the Republicans, for the first time in their history as a party, made light of constitutional objections, and closed their ears to warnings in which they had themselves hitherto found their chief rhetorical success. With Giles's appearance on the floor the tedious debate started into virulence. He began by insinuating motives, as though he were still discussing the Alien and Sedition Laws in the Virginia legislature of 1798: "A great portion of the human mind," he began, "has been at all times directed toward monarchy as the best form of government to enforce obedience and insure the general happiness; whereas another portion of the human mind has given a preference to the republican form as best calculated to produce the same end." On this difference of opinion the two parties had been founded, the one wishing "to

place in executive hands all the patronage it was possible to create for the purpose of protecting the President against the full force of his constitutional responsibility to the people;" the other contending "that the doctrine of patronage was repugnant to the opinions and feelings of the people; that it was unnecessary, expensive, and oppressive; and that the highest energy the government could possess would flow from the confidence of the mass of the people, founded upon their own sense of their common interest." Thus patronage, or in other words the creation of partial interests for the protection and support of government, had become the guiding principle of the Federalists. For this purpose the debt was funded; under cover of an Indian war, an army was created; under cover of an Algerine war, a navy was built; to support this system, taxation was extended; and finally, by availing itself of French depredations on commerce, the Administration succeeded in pushing all the forms of patronage to an extreme. When the people at last rebelled, and the Federalists saw themselves in danger, "it was natural for them to look out for some department of the government in which they could intrench themselves in the event of an unsuccessful issue in the election, and continue to support those favorite principles of irresponsibility which they could never consent to abandon."

Whatever amount of truth was contained in these charges against the Federalists, they had the merit



of consistency; they reaffirmed what had been the doctrine of the party when in opposition; what Jefferson was saying in private, and what was a sufficient argument not so much against the circuit judges as against the Federalist Judiciary altogether; but the position seemed needlessly broad for the support of the technical argument by which Giles proved the power of Congress in regard to the measure under discussion:—

“On one side it is contended that the office is the vested property of the judge, conferred on him by his appointment, and that his good behavior is the consideration of his compensation; so long, therefore, as his good behavior exists, so long his office must continue in consequence of his good behavior; and that his compensation is his property in virtue of his office, and therefore cannot be taken away by any authority whatever, although there may be no service for him to perform. On the other it is contended that the good behavior is not the consideration upon which the compensation accrues, but services rendered for the public good; and that if the office is to be considered as a property, it is a property held in trust for the benefit of the people, and must therefore be held subject to that condition of which Congress is the constitutional judge.”

Assuming that the latter view was correct, Giles gave his reasons for holding that the new Judiciary should be abolished; and the subject led him into a history of the circumstances under which the Act passed, at the moment when the House of Repre-

sentatives was in permanent session, "in the highest paroxysm of party rage," disputing over the choice between Jefferson and Burr as President. He charged that members of the legislature who voted for the law "were appointed to offices, not indeed created by the law, the Constitution having wisely guarded against an effect of that sort, but to judicial offices previously created by the removal, or what was called the promotion, of judges from the offices they then held to the offices newly created, and supplying their places by members of the legislature who voted for the creation of the new offices." He showed that the business of the courts "is now very much declined, and probably will decline still more."

"Under the view of the subject thus presented, he considered the late courts as useless and unnecessary, and the expense therefore was to him highly objectionable. He did not consider it in the nature of a compensation, for there was no equivalent rendition of service. He could not help considering it as a tribute for past services; as a tribute for the zeal displayed by these gentlemen in supporting principles which the people had denounced."

Such arguments, if good for the new circuit courts, were still stronger in their application to the Supreme Court itself. Giles affirmed that the "principles advanced in opposition . . . go to the establishment of a permanent corporation of individuals invested with ultimate censorial and controlling power over all the

departments of the government, over legislation, execution, and decision, and irresponsible to the people." He believed that these principles were "in direct hostility with the great principle of representative government." Undoubtedly these principles, if they existed anywhere, were strongest, not in the circuit, but in the Supreme Court; and if any judge was to be set aside because his appointment might be considered as a reward for zeal displayed in supporting "principles which the people had denounced," Chief-Justice Marshall, the person most likely to exercise "ultimate censorial and controlling power over all the departments of government," was peculiarly subject to suspicion and removal. To no man had the last President been more indebted, and to no one had he been more grateful.

Only incidentally, at the close of his speech, Giles advanced a final, and in his mind fatal, objection to the new courts, "because of their tendency to produce a gradual demolition of State Courts." Of all arguments this seemed to be the most legitimate, for it depended least on the imputation of evil motives to the Congress which passed the Act. No one need be supposed criminal for wishing, as was often admitted, to bring justice to every man's door; and as little need any one be blamed for wishing to maintain or to elevate the character of his State Judiciary. Parties might honestly and wisely differ, and local interests might widely diverge in a matter so much depending upon circumstances; but no

argument seemed to satisfy Giles unless it carried an implication of criminality against his opponents.

Giles's speech was such as an orator would select to answer, and James Asheton Bayard could fairly claim the right to call himself an orator. Born in Philadelphia, in 1767, Bayard was five years younger than Giles, and had followed the opposite path in politics. Without being an extreme Federalist, he had been since 1796 a distinguished member of the Federalist party in Congress, and had greatly contributed to moderate the extravagances of his friends. In the style of personality which Giles affected, Bayard was easily a master. Virulence against virulence, aristocracy had always the advantage over democracy; for the aristocratic orator united distinct styles of acrimony, and the style of social superiority was the most galling. Giles affected democratic humility to the last, and partly for that reason never became a master even of invective; while John Randolph, finding the attitude of a democrat unsuited for his rhetoric, abandoned it, and seemed to lose his mental balance in the intoxication of his recovered social superiority. Giles's charges, by an opposite illusion, seemed to crawl; his contempt resembled fear; his democratic virtues crouched before the aristocratic insolence they reproved. Bayard appeared to carry with him the sympathy of all that was noble in human character when, taking the floor as Giles sat down, he turned on the Virginian with a dignity of retort which, whatever might be its value as argu-

ment, cut the deeper because its justice could not be denied.

Jefferson's administration was not yet a year old ; the Federalists had twelve long years abounding in mistakes and misfortunes to defend, and Giles's arraignment embraced the whole. Bayard accepted the challenge, and his speech, too historical for compression, varied between long periods of defence and brief intervals of attack. The defence belonged to past history ; the attack concerned the actual moment, and need alone be noticed here. He began by refusing belief that Giles ever seriously felt the fear of monarchy he expressed ; he was led by other motives :—

“ I pray to God I may be mistaken in the opinions I entertain as to the designs of gentlemen to whom I am opposed. Those designs I believe hostile to the powers of this government. State pride extinguishes a national sentiment. Whatever power is taken from this government is given to the States. The ruins of this government aggrandize the States. There are States which are too proud to be controlled, whose sense of greatness and resource renders them indifferent to our protection, and induces a belief that if no general government existed, their influence would be more extensive and their importance more conspicuous. There are gentlemen who make no secret of an extreme point of depression to which the government is to be sunk. To that point we are rapidly progressing.”

The charge was certainly emphatic, and deserved as clear an answer from Giles as Bayard gave to the

charge of monarchical tendencies. On the constitutional point involved in the Bill before the House, Bayard was equally distinct:—

“The point on which I rely is that you can do no act which impairs the independence of a judge. When gentlemen assert that the office may be vacated notwithstanding the incumbency of a judge, do they consider that they beg the very point which is in controversy? The office cannot be vacated without violating the express provision of the Constitution in relation to the tenure. . . . The second plain, unequivocal provision on this subject is that the compensation of the judge shall not be diminished during the time he continues in office. This provision is directly levelled at the power of the legislature: they alone could reduce the salary. Could this provision have any other design than to place the judge out of the power of Congress? You cannot reduce a part of the compensation, but you may extinguish the whole. What is the sum of this notable reasoning? You cannot remove the judge from the office, but you may take the office from the judge; you cannot take the compensation from the judge, but you may separate the judge from the compensation. If your Constitution cannot resist reasoning like this, then indeed is it waste paper.”

When Bayard reached Giles's favorite doctrine that patronage was a Federalist system, and the charge that two senators who voted for the Judiciary Act of 1801 were rewarded by the offices vacated in consequence of promotions to circuit judgeships, he produced a true oratorical sensation by a retort that sank deep into the public memory:—



“The case to which I refer carries me once more to the scene of the Presidential election. I should not have introduced it into this debate, had it not been called up by the honorable member from Virginia. In that scene I had my part; it was a part not barren of incident, and which has left an impression which cannot easily depart from my recollection. I know who were rendered important characters, either from the possession of personal means or from the accident of political situation. And now, Sir, let me ask the honorable member what his reflections and belief will be when he observes that every man on whose vote the event of the election hung has since been distinguished by presidential favor. I fear, Sir, I shall violate the decorum of parliamentary proceeding in the mentioning of names, but I hope the example which has been set me will be admitted as an excuse. Mr. Charles Pinckney of South Carolina was not a member of the House, but he was one of the most active, efficient, and successful promoters of the election of the present chief magistrate. It was well ascertained that the votes of South Carolina were to turn the equal balance of the scales. The zeal and industry of Mr. Pinckney had no bounds; the doubtful politics of South Carolina were decided, and her votes cast in the scale of Mr. Jefferson. Mr. Pinckney has since been appointed Minister Plenipotentiary to the Court of Madrid,—an appointment as high and honorable as any within the gift of the Executive. I will not deny that this preferment is the reward of talents and services, although, Sir, I have never yet heard of the talents or services of Mr. Charles Pinckney. In the House of Representatives I know what was the value of the vote of Mr. Claiborne of Tennessee; the vote of a State was in his hands.

Mr. Claiborne has since been raised to the high dignity of Governor of the Mississippi Territory. I know how great, and how greatly felt, was the importance of the vote of Mr. Linn of New Jersey. The delegation of the State consists of five members; two of the delegation were decidedly for Mr. Jefferson, two were decidedly for Mr. Burr. Mr. Linn was considered as inclining to one side, but still doubtful; both parties looked up to him for the vote of New Jersey. He gave it to Mr. Jefferson; and Mr. Linn has since had the profitable office of supervisor of his district conferred upon him. Mr. Lyon of Vermont was in this instance an important man; he neutralized the vote of Vermont; his absence alone would have given the vote of a State to Mr. Burr. It was too much to give an office to Mr. Lyon, — his character was low; but Mr. Lyon's son has been handsomely provided for in one of the Executive offices. I shall add to the catalogue but the name of one more gentleman, Mr. Edward Livingston of New York. I knew well — full well I knew — the consequence of this gentleman. His means were not limited to his own vote; nay, I always considered more than the vote of New York within his power. Mr. Livingston has been made the Attorney for the District of New York; the road of preferment has been opened to him, and his brother has been raised to the distinguished place of Minister Plenipotentiary to the French Republic."

Such charges would have caused little feeling at any subsequent period, but the Republican party was the first opposition that gained power in the United States, and hitherto it had believed in its own virtue. Such a state of things could never occur again, for

only a new country could be inexperienced in politics; but the cynical indifference with which Europe looked on while patriots were bought, was as yet unknown to Jefferson's friends. They were honest; they supposed themselves to have crushed a corrupt system, and to have overthrown in especial the influence of Executive patronage upon Congress. Men like Gallatin, Giles, Randolph, Macon, Nicholson, Stanford, and John Taylor of Caroline listened to Bayard's catalogue of Executive favors as though it were a criminal indictment. They knew that he might have said more, had he been deeper in Executive secrets. Not only had he failed to include all the rewards given to Jefferson's friends, but he omitted the punishments inflicted on those who were believed to be Jefferson's enemies. He did not know that Theodorus Bailey, another of Burr's friends who had voted for Jefferson, was soon to be made postmaster of New York, while Burr himself was not only refused the appointment of Matthew L. Davis, but was to be condemned without a trial.

The acrimony which Giles's tongue thus threw into the debate continued to the end of the session, but had no deeper effect than to make the majority cautious. They were content to show that the Constitution did not expressly forbid the act they meant to perform. In truth the legality of the act depended on the legitimacy of the motive. Of all the root-and-branch Virginians, John Randolph was perhaps the most extreme; and his speech of February 20 laid

down an honest principle of action. "It is not on account of the paltry expense of the establishment that I want to put it down," he protested; and with still more energy he said, "I am free to declare that if the intent of this Bill is to get rid of the judges, it is a perversion of your power to a base purpose; it is an unconstitutional act."

As a matter of expediency and public convenience, no one seriously denied that the Federalists were altogether in the right. The introduction of railways and steamboats greatly altered the problem of judicial organization; but no system could have been better adapted to its time and purposes than that of 1801. The only solid argument brought against it was that it attained its object too completely, bringing Federal justice to every man's door, and removing every difficulty or objection to suing in Federal courts. There was truth in the complaint that it thus placed the State judiciaries at a disadvantage. Beyond and above this, the controversy involved another question of far-reaching consequences which the Republicans were too timid to avow. A true democrat might have said openly that he wanted an elective judiciary, or would have insisted that the whole judiciary must be made subject to removal by the legislature. In neither of these opinions was anything disgraceful or improper; yet such was the dread of Federalist and conservative outcry, that although many of the Republican speakers went to the verge of the avowal, none dared make the issue.

Their timidity cost the Virginians dear. They knew, and never ceased to complain, that power grew mechanically; and only their want of experience excused them for over-confidence in the strength of their own virtue. They saw that the only part of Federalist centralization still remaining beyond their control was the judiciary; and they knew that if the judiciary were allowed to escape them in their first fervor of Republican virtue, they never could grapple with it after their own hands had learned the use of centralized power and felt the charm of office. Instead of acting, they temporized, threatened without daring to strike, and were made to appear like secret conspirators, planning what they feared to avow.

The repeal of the Judiciary Act passed the House, March 3, by a party vote of fifty-nine to thirty-two; but the Federalists were far from feeling themselves beaten. They had measured the strength of the majority, and felt that the revolutionary impulse was exhausted. As the Federalists grew bolder, the Republicans grew more timid. They passed a supplementary Judiciary Act, to quiet complaint and to prevent the Supreme Court from holding its customary autumn term, lest Marshall should declare the abolition of the circuit courts unconstitutional. The evidences of timidity were not confined to judiciary measures. On no subject had the Republicans expressed stronger convictions than against the navy; yet when Michael Leib of Pennsylvania, in the heat of the judiciary debate, moved for a committee to consider the ques-

tion of abolishing the navy, his motion was allowed to lie on the table until Roger Griswold, an extreme Connecticut Federalist, called it up, March 5, in a spirit of defiance. The House sustained Griswold, and took up the Resolution; whereat Leib withdrew his own motion, and evaded the issue he had challenged. In regard to another Federalist creation which had been the subject of Republican attacks, a similar failure occurred. The mint cost nearly as much as the circuit courts, and accomplished less. Since its foundation it had coined, in gold, silver, and copper, only \$3,000,000, at a cost of nearly \$300,000; while a gold or silver coin of the United States was still a rare sight. The Republican party when in opposition had opposed the mint as a monarchical institution, — unnecessary, expensive, and symbolic of centralized power. Giles accordingly moved, January 29, that the Act under which it existed should be repealed. In a speech, February 8, he avowed his hostility to the establishment from the beginning; he thought none but self-supporting establishments should exist. "There is a difference," said he, "between this and other countries. Other nations need to coin their own money; it is not with them the general but the partial good; it is aggrandizement of individuals, the trappings of royalty. Here, it is true, you established a mint, you have raised armies and fleets, to create an Executive influence; but what do the people say now? They send men here now to govern, who shall not govern for themselves but for



the people." This was party doctrine. John Randolph adopted it in principle, asserting that nineteenth-twentieths of the silver in circulation was Spanish-milled dollars or their parts, and that sovereignty was no more affected by using foreign coin than by using foreign cordage or cannon. The House accepted these views; Giles brought in his Bill for abolishing the mint; and after a short debate the House passed it, April 26, without a division. On the same day the Senate, quietly, without discussion or a call of yeas and nays, rejected it.

Perhaps the limit of Virginian influence was shown with most emphasis in the fate of a fugitive-slave Bill reported Dec. 18, 1801, by a committee of which Joseph Nicholson was chairman. The Bill imposed a fine of five hundred dollars on any one who should employ a strange negro without advertising in two newspapers a description of the man. Every free negro in the North must under this law carry about him a certificate of his freedom. To this sweeping exercise of a "centralized despotism" the Northern democrats objected, and, with only half-a-dozen exceptions, voted against it, although Bayard and several Southern Federalists joined Giles, Michael Leib, and John Randolph in its support. The Bill was rejected, January 18, by a vote of forty-six to forty-three.

Before the session closed, sensible Federalists were reassured, and the Administration was glad to repose on such triumphs as had been won.

“The President’s party in Congress,” wrote Bayard to Hamilton,<sup>1</sup> “is much weaker than you would be led to judge from the printed state of the votes. Here we plainly discern that there is no confidence, nor the smallest attachment prevails among them. The spirit which existed at the beginning of the session is entirely dissipated; a more rapid and radical change could not have been anticipated. An occasion is only wanting for Virginia to find herself abandoned by all her auxiliaries, and she would be abandoned upon the ground of her inimical principles to an efficient federal government.”

The general legislation of the year showed no partisan character. A naturalization law was adopted, re-establishing the term of five years’ residence as a condition of citizenship, — a measure recommended by the annual Message. A new apportionment Act was passed, fixing the ratio of Congressional representation at one member for 33,000 citizens. During the next ten years the House was to consist of one hundred and forty-one members. The military peace establishment was fixed at three regiments, one of artillery and two of infantry, comprising in all about three thousand men, under one brigadier-general. By Sections 26 and 27 of the Act, approved March 16, 1802, the President was authorized to establish a corps of engineers, to be stationed at West Point in the State of New York, which should constitute a military academy; and the Secretary of War was

<sup>1</sup> Bayard to Hamilton, April 25, 1802; Hamilton’s Works, vi. 534.

authorized to procure the necessary apparatus for the institution. Great as the influence of this new establishment was upon the army, its bearing on the general education of the people was still greater, for the government thus assumed the charge of introducing the first systematic study of science in the United States.

Perhaps the most important legislation of the year was an Act approved April 30, which authorized the people of Ohio to form a Constitution and enter the Union; for not only was the admission of Ohio a formidable increase of power to the Northern democracy, but Gallatin inserted into the law a contract, which bound the State and nation to set aside the proceeds of a certain portion of the public lands for the use of schools and for the construction of roads between the new State and the seaboard. This principle, by which education and internal improvements were taken under the protection of Congress, was a violation of States-rights theories, against which, in after years, the strict constructionists protested; but in this first year of their sway Gallatin and the Northern democrats were allowed to manage their own affairs without interference. John Randolph would not vote for the admission of a new State, but Giles and Nicholson gave their votes for the bill, which passed without a murmur.

Gallatin's influence carried another point, more annoying to the Southern Republicans, although less serious. After years of wrangling, Georgia surren-

dered to the United States government all right and title to the territory which was afterward to become the States of Alabama and Mississippi. This immense region, shut from the Gulf of Mexico by the Spaniards, who owned every river-mouth, was inhabited by powerful Indian tribes, of whom the Georgians stood in terror. The Creeks and Cherokees, Choctaws and Chickasaws, owned the land, and were wards of the United States government. No one could say what was the value of Georgia's title, for it depended on her power to dispossess the Indians; but however good the title might be, the State would have been fortunate to make it a free gift to any authority strong enough to deal with the Creeks and Cherokees alone. In the year 1795, ignoring the claims of the national government, the Georgia Legislature sold its rights over twenty million acres of Indian land to four land-companies for the gross sum of five hundred thousand dollars. With one exception, every member of the Legislature appeared to have a pecuniary interest in the transaction; yet no one could say with certainty that the title was worth more than half a million dollars, or indeed was worth anything to the purchasers, unless backed by the power of the United States government, which was not yet the case. Nevertheless, the people of Georgia, like the people of Massachusetts and Pennsylvania, being at the moment in the fever of land-speculation, partly because they thought the land too cheap, partly because they believed their representa-

tives to have been bribed, rose in anger against their Legislature and elected a new one, which declared the sales "null and void," burned the Yazoo Act, as it was called, in the public square of Louisville, and called a State Convention which made the repealing Act a part of the Constitution.

This series of measures completed the imbroglio. No man could say to whom the lands belonged. President Washington interposed on the part of the central government; the Indians quietly kept possession; hundreds of individuals in the Eastern States who had bought land-warrants from the Yazoo companies, claimed their land; while Georgia ignored President Washington, the Indians, the claimants, and the law, insisting that as a sovereign State she had the right to sell her own land, and to repudiate that sale for proper cause. In this case the State maintained that the sale was vitiated by fraud.

Doubtless the argument had force. If a sovereign State had not the power to protect itself from its own agents, it had, in joining the Union, entered into a relation different from anything hitherto supposed. Georgia put the utmost weight on the Rescinding Act as a measure of States-rights, and the true Virginia school made common cause with Georgia. Republicans who believed in the principles of 1798 considered the maintenance of the Rescinding Act a vital issue.

At length Congress took the matter in hand. Madison, Gallatin, and Levi Lincoln were appointed com-

missioners to make a settlement; and Senator James Jackson, the anti-Yazoo leader, supported by his colleague Senator Baldwin and by Governor Milledge, met them on behalf of Georgia,—a formidable array of high officials, whose whole authority was needed to give their decision weight. April 24, 1802, they reached a settlement so liberal to Georgia that Jackson and his associates took the risk of yielding more than they liked to concede. The western boundary was fixed to please the State; an immediate cession of land was obtained from the Indians, and the United States undertook to extinguish at their own expense, as early as they could reasonably do it, the Indian title to all lands within the limits of Georgia; the sum of \$1,250,000 was to be paid to the State from the first net proceeds of land-sales; the ceded territory was to be admitted as a State, with slavery, whenever its population should reach sixty thousand; and in consideration for these advantages the Georgians unwillingly agreed that five million acres should be set aside for the purpose of compromising claims. The commissioners did not venture to affirm the legality of the Yazoo sale, but, while expressing the opinion that “the title of the claimants cannot be supported,” declared that “the interest of the United States, the tranquillity of those who may hereafter inhabit that territory, and various equitable considerations which may be urged in favor of most of the present claimants, render it expedient to enter into a compromise on reasonable terms.” With this con-



cession to the principle of States-rights, the Georgians were appeased, and the commissioners hoped that all parties would be satisfied. The brunt of the negotiation fell upon Gallatin; but Madison found no difficulty in giving his support to the compromise.

These two measures greatly affected the Government and increased its power. The admission of Ohio into the Union gave two more senators to the Administration, and the acquisition of the southwestern territory relieved it from an annoying conflict of authority. Jefferson was henceforward better able to carry out his humane policy toward the Indians,—a policy which won him praise from some of his bitterest enemies; while Gallatin turned his energies toward developing the public-land system, in which he had, when in opposition, taken active interest. The machinery of government worked more easily every day.

## CHAPTER XII.

WHEN the session of Congress closed, May 3, the Administration was left to administer a system greatly reduced in proportions. In Jefferson's own words, he had "put the ship on her republican tack," where she was to show by the beauty of her motion the skill of her builders. Nothing remained, with respect to internal politics, but to restore harmony by winning recalcitrant New England, a task which he confidently hoped to accomplish within the course of the year. "If we are permitted," he wrote,<sup>1</sup> in October, 1801, "to go on so gradually in the removals called for by the Republicans, as not to shock or revolt our well-meaning citizens who are coming over to us in a steady stream, we shall completely consolidate the nation in a short time,—excepting always the royalists and priests." So hopeful was he of immediate success, that he wrote to his French correspondent, Dupont de Nemours,<sup>2</sup> in January, 1802: "I am satisfied that within one year from this time, were an election to take place between two candidates, merely Republican and Federal, where no personal opposition existed against either, the Federal candidate would

<sup>1</sup> Jefferson to Peter Carr, Oct. 25, 1801 ; Jefferson MSS.

<sup>2</sup> Jefferson to M. Dupont, Jan. 18, 1802 ; Jefferson MSS.

not get the vote of a single elector in the United States." To revolutionize New England, he concentrated Executive influence, and checked party spirit. He began by placing two Massachusetts men in his Cabinet; before long he appointed as Postmaster-General an active Connecticut politician, Gideon Granger. The Postmaster-General was not then a member of the Cabinet, but his patronage was not the less important. Granger and Lincoln carried on a sapper's duty of undermining and weakening the Federalists' defences, while the Republican party refrained from acts that could rouse alarm.

Although in cooler moments Jefferson was less sanguine, he still so far miscalculated the division between himself and New England, that when the spring elections showed less increase than he expected in the Republican vote, he could not explain the cause of his error. "I had hoped," he wrote,<sup>1</sup> in April, 1802, "that the proceedings of this session of Congress would have rallied the great body of citizens at once to one opinion; but the inveteracy of their quondam leaders has been able, by intermingling the grossest lies and misrepresentations, to check the effect in some small degree until they shall be exposed." Nevertheless, he flattered himself that the work was practically done.<sup>2</sup> "In Rhode Island the late election gives us two to one through the whole

<sup>1</sup> Jefferson to Cæsar A. Rodney, April 24, 1802; Jefferson's Writings (Ford), viii. 147.

<sup>2</sup> Jefferson to Joel Barlow, May 3, 1802; Works, iv. 437.

State. Vermont is decidedly with us. It is said and believed that New Hampshire has got a majority of Republicans now in its Legislature, and wanted a few hundreds only of turning out their Federal governor. He goes assuredly the next trial. Connecticut is supposed to have gained for us about fifteen or twenty per cent since the last election; but the exact issue is not yet known here, nor is it certainly known how we shall stand in the House of Representatives of Massachusetts; in the Senate there we have lost ground. The candid Federalists acknowledge that their party can never more raise its head." This was all true; he had won also in national politics a triumph that warranted confidence. "Our majority in the House of Representatives has been about two to one; in the Senate, eighteen to fifteen. After another election it will be of two to one in the Senate, and it would not be for the public good to have it greater. A respectable minority is useful as censors; the present one is not respectable, being the bitterest remains of the cup of Federalism rendered desperate and furious by despair."

Jefferson resembled all rulers in one peculiarity of mind. Even Bonaparte thought that a respectable minority might be useful as censors; but neither Bonaparte nor Jefferson was willing to agree that any particular minority was respectable. Jefferson could not persuade himself to treat with justice the remnants of that great party which he himself, by opposition not more "respectable" than theirs, had driven

from power and “rendered desperate and furious by despair.” Jefferson prided himself on his services to free-thought even more than on those he had rendered to political freedom: in the political field he had many rivals, but in the scientific arena he stood, or thought he stood, alone. His relations with European philosophers afforded him deep enjoyment; and in his Virginian remoteness he imagined his own influence on thought, abroad and at home, to be greater than others supposed it. His knowledge of New England was so slight that he readily adopted a belief in the intolerance of Puritan society toward every form of learning; he loved to contrast himself with his predecessor in the encouragement of science, and he held that to break down the theory and practice of a state-church in New England was necessary not only to his own complete triumph, but to the introduction of scientific thought. Had he known the people of New England better, he would have let them alone; but believing that Massachusetts and Connecticut were ruled by an oligarchy like the old Virginia tobacco-planters, with no deep hold on the people, he was bent upon attacking and overthrowing it. At the moment when he was thus preparing to introduce science into New England by political methods, President Dwight, the head of New England Calvinism, was persuading Benjamin Silliman to devote his life to the teaching of chemistry in Yale College.<sup>1</sup> Not long afterward, the Corpora-

<sup>1</sup> Life of Benjamin Silliman, i. 90-96.

tion of Harvard College scandalized the orthodox by electing as Professor of Theology, Henry Ware, whose Unitarian sympathies were notorious. All three authorities were working in their own way for the same result ; but Jefferson preferred to work through political revolution, — a path which the people of New England chose only when they could annoy their rulers. To effect this revolution from above, to seduce the hesitating, harass the obstinate, and combine the champions of free-thought against the priests, was Jefferson's ardent wish. Soon after his inauguration he wrote to Dr. Priestley,<sup>1</sup> —

“ Yours is one of the few lives precious to mankind, and for the continuance of which every thinking man is solicitous. Bigots may be an exception. What an effort, my dear sir, of bigotry, in politics and religion, have we gone through ! The barbarians really flattered themselves they should be able to bring back the times of Vandalism, when ignorance put everything into the hands of power and priestcraft. All advances in science were proscribed as innovations. They pretended to praise and encourage education, but it was to be the education of our ancestors. We were to look backwards, not forwards, for improvement, — the President himself declaring, in one of his Answers to Addresses, that we were never to expect to go beyond them in real science. This was the real ground of all the attacks on you. Those who live by mystery and *charlatanerie*, fearing you would render them useless by simplifying the Christian philosophy, —

<sup>1</sup> Jefferson to Priestley, March 21, 1801 ; Works, iv. 373.



the most sublime and benevolent, but most perverted, system that ever shone on man,—endeavored to crush your well-earned and well-deserved fame.”

Who was it that lived “by mystery and *charlatanerie*?” Some three years before, in the excitement of 1798, Jefferson wrote to his friend John Taylor of Caroline his opinion of the New Englanders, with the serious air which sometimes gave to his occasional exaggerations the more effect of humor because no humor was intended:<sup>1</sup>—

“Seeing that we must have somebody to quarrel with, I had rather keep our New England associates for that purpose than to see our bickerings transferred to others. They are circumscribed within such narrow limits, and their population so full, that their numbers will ever be the minority; and they are marked, like the Jews, with such a perversity of character as to constitute, from that circumstance, the natural division of our parties. A little patience, and we shall see the reign of witches pass over, their spells dissolved, and the people recovering their true sight, restoring their government to its true principles.”

The letters to Priestley and Taylor gave comparatively mild expression of this dislike for New Englanders and Jews. Another letter, written at the same time with that to Priestley, spoke more plainly:<sup>2</sup>—

<sup>1</sup> Jefferson to John Taylor, June 1, 1798; Works, iv. 247.

<sup>2</sup> Jefferson to Moses Robinson, March 23, 1801; Works, iv. 379.

“The Eastern States will be the last to come over, on account of the dominion of the clergy, who had got a smell of union between Church and State, and began to indulge reveries which can never be realized in the present state of science. If, indeed, they could have prevailed on us to view all advances in science as dangerous innovations, and to look back to the opinions and practices of our forefathers instead of looking forward for improvement, a promising groundwork would have been laid; but I am in hopes their good sense will dictate to them that since the mountain will not come to them, they had better go to the mountain; that they will find their interest in acquiescing in the liberty and science of their country; and that the Christian religion, when divested of the rags in which they have enveloped it, and brought to the original purity and simplicity of its benevolent institutor, is a religion of all others most friendly to liberty, science, and the freest expansion of the human mind.”

If the New England Calvinists ever laughed, one might suppose that they could have found in this letter, had it been published, material for laughter as sardonic as the letter itself. Their good sense was not likely then to dictate, their interest certainly would not induce them to believe, that they had best adopt Jefferson's views of the “benevolent institutor” of Christianity; and Jefferson, aware of the impossibility, regarded his quarrel with them as irreconcilable. “The clergy,” he wrote again, a few weeks later,<sup>1</sup> “who have missed their union with the

<sup>1</sup> Jefferson to Gideon Granger, May 3, 1801; Works, iv. 395.

State, the Anglo-men who have missed their union with England, and the political adventurers who have lost the chance of swindling and plunder in the waste of public money, will never cease to bawl on the breaking up of their sanctuary." Of all these classes the clergy alone were mortal enemies. "Of the monarchical Federalists," he wrote to his attorney-general,<sup>1</sup> "I have no expectations; they are incurables, to be taken care of in a mad-house if necessary, and on motives of charity." The monarchical Federalists, as he chose to call them, were the Essex Junto, — George Cabot, Theophilus Parsons, Fisher Ames, Timothy Pickering, Stephen Higginson, and their followers; but it was not with them or their opinions that Jefferson was angriest. "The 'Palladium,'" he went on, "is understood to be the clerical paper, and from the clergy I expect no mercy. They crucified their Saviour, who preached that their kingdom was not of this world; and all who practise on that precept must expect the extreme of their wrath. The laws of the present day withhold their hands from blood, but lies and slander still remain to them."

This was strong language. When Jefferson cried that law alone withheld the hands of the New England clergy from taking his blood, his words were not wholly figures of speech. He had fought a similar battle in Virginia, and still felt its virulence. What was more to the purpose, every politician could see that his strategy was correct. The New England church was

<sup>1</sup> Jefferson to Levi Lincoln, Aug. 26, 1801; Works, iv. 406.

the chief obstacle to democratic success, and New-England society, as then constituted, was dangerous to the safety of the Union. Whether a reform could be best accomplished by external attack, or whether Massachusetts and Connecticut had best be left in peace to work out their own problems, was a matter of judgment only. If Jefferson thought he had the power to effect his object by political influence, he could hardly refuse to make the attempt, although he admitted that his chance of success in Connecticut was desperate. "I consider Rhode Island, Vermont, Massachusetts, and New Hampshire," he wrote to Pierpont Edwards, of Connecticut,<sup>1</sup> "as coming about in the course of this year, . . . but the nature of your government being a subordination of the civil to the ecclesiastical power, I consider it as desperate for long years to come. Their steady habits exclude the advances of information, and they seem exactly where they were when they separated from the Saints of Oliver Cromwell; and there your clergy will always keep them if they can. You will follow the bark of Liberty only by the help of a tow-rope."

Expecting no mercy from the clergy, Jefferson took pains to show that they were to look for no mercy from him. At the moment he began the attempt to "completely consolidate the nation," he gave what amounted to a formal notice that with the clergy he would neither make peace nor accept truce. A few

<sup>1</sup> Jefferson to Pierpont Edwards, July 21, 1801; Jefferson's Writings (Ford), viii. 74.

days after announcing in his Inaugural Address, "We are all Republicans—we are all Federalists," and appealing for harmony and affection in social intercourse, Jefferson wrote a letter to the famous Thomas Paine, then at Paris waiting for means of conveyance to America. A sloop-of-war, the "Maryland," was under orders for Havre to carry the ratification of the new treaty with France, and the President made his first use of the navy to pay a public compliment to Paine.

"You expressed a wish," he wrote,<sup>1</sup> "to get a passage to this country in a public vessel. Mr. Dawson is charged with orders to the captain of the 'Maryland' to receive and accommodate you with a passage back, if you can be ready to depart at such short warning. . . . I am in hopes you will find us returned generally to sentiments worthy of former times. In these it will be your glory to have steadily labored, and with as much effect as any man living. That you may long live to continue your useful labors, and to reap their reward in the thankfulness of nations, is my sincere prayer. Accept assurances of my high esteem and affectionate attachment."

The sentiments in which Paine gloried "to have steadily labored," so far as they were recent, chiefly consisted in applause of the French Revolution, in libels on President Washington and his successor, and in assaults on the Christian religion. Whether he was right or wrong need not be discussed. Even though he were correct in them all, and was entitled to

<sup>1</sup> Jefferson to Thomas Paine, March 18, 1801 ; Works, iv. 370.

higher respect than any which Jefferson could show him, he was at that time regarded by respectable society, both Federalist and Republican, as a person to be avoided, a character to be feared. Among the New England churches the prejudice against him amounted to loathing, which epithets could hardly express. Had Jefferson written a letter to Bonaparte applauding his "useful labors" on the 18th Brumaire, and praying that he might live long to continue them, he would not have excited in the minds of the New England Calvinists so deep a sense of disgust as by thus seeming to identify himself with Paine. All this was known to him when he wrote his letter; he knew too that Paine would be likely to make no secret of such a compliment; and even if Paine held his tongue, the fact of his return in a national vessel must tell the story.

Jefferson's friends took a tone of apology about the letter to Paine, implying that he acted without reflection. They treated the letter as a formal civility, such as might without complaint have been extended to Gates or Conway or Charles Lee,<sup>1</sup>—a reminiscence of Revolutionary services which implied no personal feeling. Had Jefferson meant no more than this, he would have said only what he meant. He was not obliged to offer Paine a passage in a ship-of-war; or if he felt himself called upon to do so, he need not have written a letter; or if a letter must be written, he might have used very cordial language without

<sup>1</sup> Randall's Jefferson, ii. 643.



risking the charge of applauding Paine's assaults on Christianity, and without seeming to invite him to continue such "useful labors" in America. No man could express more delicate shades of sympathy than Jefferson when he chose. He had smarted for years under the lashing caused by his Mazzei letter, and knew that a nest of hornets would rise about him the moment the "Maryland" should arrive; yet he wrote an assurance of his "high esteem and affectionate attachment" to Paine, with a "sincere prayer" that he might "long live to continue" his "useful labors." These expressions were either deceptive, or they proved the President's earnestness and courage. The letter to Paine was not, like the letter to Mazzei, a matter of apology or explanation. Jefferson never withdrew or qualified its language, or tried to soften its effect. "With respect to the letter," he wrote<sup>1</sup> to Paine in 1805, "I never hesitated to avow and to justify it in conversation. In no other way do I trouble myself to contradict anything which is said." Believing that the clergy would have taken his blood if the law had not restrained them, he meant to destroy their church if he could; and he gave them fair notice of his intention.

Although the letter to Paine was never explained away, other expressions of the President seemed to contradict the spirit of this letter, and these the President took trouble to explain. What had he meant by his famous appeal in behalf of harmony

<sup>1</sup> Jefferson to Paine, June 5, 1805; Works, iv. 582.

and affection in social intercourse, "without which liberty and even life itself are but dreary things"? What was to become of the still more famous declaration, "We are all Republicans — we are all Federalists"? Hardly had he uttered these words than he hastened to explain them to his friends. "It was a conviction," he wrote to Giles,<sup>1</sup> "that these people did not differ from us in principle which induced me to define the principles which I deemed orthodox, and to urge a reunion on those principles; and I am induced to hope it has conciliated many. I do not speak of the desperadoes of the quondam faction in and out of Congress. These I consider as incurables, on whom all attentions would be lost, and therefore will not be wasted; but my wish is to keep their flock from returning to them." He intended to entice the flock with one hand and to belabor the shepherds with the other. In equally clear language he wrote to Governor McKean of Pennsylvania:<sup>2</sup> —

"My idea is that the mass of our countrymen, even of those who call themselves Federalist, are Republican. They differ from us but in a shade of more or less power to be given to the Executive or Legislative organ. . . . To restore that harmony which our predecessors so wickedly made it their object to break up, to render us again one people acting as one nation, — should be the object of every man really a patriot. I am satisfied

<sup>1</sup> Jefferson to W. B. Giles, March 23, 1801; Works, iv. 382.

<sup>2</sup> Jefferson to Governor McKean, July 24, 1801; Jefferson's Writings (Ford), viii. 78.

it can be done, and I own that the day which should convince me to the contrary would be the bitterest of my life.”

This motive, he said, had dictated his answer to the New Haven remonstrants, — a paper, he added, which “will furnish new texts for the monarchists; but from them I ask nothing: I wish nothing but their eternal hatred.”

The interest of Jefferson’s character consisted, to no small extent, in these outbursts of temper, which gave so lively a tone to his official, and still more to his private, language. The avowal in one sentence of his duty as a patriot to restore the harmony which his predecessors (one of whom was President Washington) had “so wickedly made it their object to break up,” and the admission that the day of his final failure would be the bitterest of his life, contrasted strangely with his wish, in the next sentence, for the eternal hatred of a class which embraced most of the bench and bar, the merchants and farmers, the colleges and the churches of New England! In any other man such contradictions would have argued dishonesty. In Jefferson they proved only that he took New England to be like Virginia, — ruled by a petty oligarchy which had no sympathies with the people, and whose artificial power, once broken, would vanish like that of the Virginia church. He persuaded himself that if his system were politically successful, the New England hierarchy could be safely ignored. When he said

that all were Republicans and all Federalists, he meant that the churches and prejudices of New England were, in his opinion, already so much weakened as not to be taken into his account.

At first the New Englanders were half inclined to believe his assurances. The idea of drawing a line between the people on one side and the bulk of their clergy, magistrates, political leaders, learned professions, colleges, and land-owners on the other did not occur to them, and so thoroughly Virginian was this idea that it never came to be understood; but when they found Jefferson ejecting Federalists from office and threatening the clergy with Paine, they assumed, without refined analysis, that the President had deliberately deceived them. This view agreed with their previous prejudices against Jefferson's character, and with their understanding of the Mazzei letter. Their wrath soon became hot with the dry white heat peculiar to their character. The clergy had always hated Jefferson, and believed him not only to be untruthful, but to be also a demagogue, a backbiter, and a sensualist. When they found him, as they imagined, actually at work stripping not only the rags from their religion, but the very coats from their backs, and setting Paine to bait them, they were beside themselves with rage and contempt.

Thus the summer of 1802, which Jefferson's hopes had painted as the term of his complete success, was marked by an outburst of reciprocal invective and slander such as could not be matched in American

history. The floodgates of calumny were opened. By a stroke of evil fortune Jefferson further roused against himself the hatred of a man whose vileness made him more formidable than the respectability of New England could ever be. James Thompson Callender, a Scotch adventurer compared with whom the Cobbetts, Duanes, Cheethams, and Woods who infested the press were men of moral and pure life, had been an ally of Jefferson during the stormy days of 1798, and had published at Richmond a volume called "The Prospect before us," which was sufficiently libellous to draw upon him a State prosecution, and a fine and some months' imprisonment at the rough hands of Judge Chase. A few years later the Republicans would have applauded the sentence, and regretted only its lightness. In 1800 they were bound to make common cause with the victim. When Jefferson became President, he pardoned Callender, and by a stretch of authority returned to him the amount of his fine. Naturally Callender expected reward. He hastened to Washington, and was referred to Madison. He said that he was in love, and hinted that to win the object of his affection nothing less than the post-office at Richmond was necessary for his social standing.<sup>1</sup> Meeting with a positive refusal, he returned to Richmond in extreme anger, and became editor of a newspaper called "The Recorder," in which he began to wage against Jefferson a war of slander that Cobbett and Cheet-

<sup>1</sup> Madison to Monroe, June 1, 1801 ; Madison's Works, ii. 173.

ham would have shrunk from. He collected every story he could gather, among overseers and scandal-mongers, about Jefferson's past life, — charged him with having a family of negro children by a slave named Sally; with having been turned out of the house of a certain Major Walker for writing a secret love-letter to his wife; with having swindled his creditors by paying debts in worthless currency, and with having privately paid Callender himself to write "The Prospect before us," besides furnishing materials for the book. Disproof of these charges was impossible. That which concerned Black Sally, as she was called, seems to have rested on a confusion of persons which could not be cleared up; that relating to Mrs. Walker had a foundation of truth, although the parties were afterward reconciled;<sup>1</sup> that regarding the payment of debt was true in one sense, and false only in the sense which Callender gave it; while that which referred to "The Prospect before us" was true enough to be serious. All these charges were welcomed by the Federalist press, reprinted even in the New York "Evening Post," and scattered broadcast over New England. There men's minds were ready to welcome any tale of villany that bore out their theory of Jefferson's character; and, at the most critical moment, a mistake made by himself went far to confirm their prejudice.

Jefferson's nature was feminine; he was more re-

<sup>1</sup> Madison to Monroe, April 20, 1803; Madison's Writings, ii. 181.



fined than many women in the delicacy of his private relations, and even men as shameless as Callender himself winced under attacks of such a sort. He was sensitive, affectionate, and, in his own eyes, heroic. He yearned for love and praise as no other great American ever did. He hated the clergy chiefly because he knew that from them he could expect neither love nor praise, perhaps not even forbearance. He had befriended Callender against his own better judgment, as every party leader befriended party hacks, not because the leaders approved them, but because they were necessary for the press. So far as license was concerned, "The Prospect before us" was a mild libel compared with Cobbett's, Coleman's, and Dennie's cataracts of abuse; and at the time it was written, Callender's character was not known and his habits were still decent. In return for kindness and encouragement, Callender attempted an act of dastardly assassination, which the whole Federalist press cheered. That a large part of the community, and the part socially uppermost, should believe this drunken ruffian, and should laugh while he bespattered their President with his filth, was a mortification which cut deep into Jefferson's heart. Hurt and angry, he felt that at bottom it was the old theological hatred in Virginia and New England which sustained this mode of warfare; that as he had flung Paine at them, they were flinging Callender at him. "With the aid of a lying renegade from Republicanism, the Federalists have opened all their sluices of calumny,"

he wrote;<sup>1</sup> and he would have done wisely to say no more. Unluckily for him, he undertook to contradict Callender's assertions.

James Monroe was Governor of Virginia. Some weakness in Monroe's character caused him more than once to mix in scandals which he might better have left untouched. July 7, 1802, he wrote to the President, asking for the facts in regard to Jefferson's relations with Callender. The President's reply confessed the smart of his wound:<sup>2</sup> —

“I am really mortified at the base ingratitude of Callender. It presents human nature in a hideous form. It gives me concern because I perceive that relief which was afforded him on mere motives of charity, may be viewed under the aspect of employing him as a writer.”

He explained how he had pitied Callender, and repeatedly given him money.

“As to myself,” he continued, “no man wished more to see his pen stopped; but I considered him still as a proper object of benevolence. The succeeding year [1800] he again wanted money to buy paper for another volume. I made his letter, as before, the occasion of giving him another fifty dollars. He considers these as proofs of my approbation of his writings, when they were mere charities, yielded under a strong conviction that he was injuring us by his writings.”

<sup>1</sup> Jefferson to R. R. Livingston, Oct. 10, 1802; Works, iv. 448.

<sup>2</sup> Jefferson to Monroe, July 15 and 17, 1802; Works, iv. 444-447.

Unfortunately, Jefferson could not find the press-copies of his letters to Callender, and let Monroe send out these apologies without stopping to compare them with his written words. No sooner had the Republican newspapers taken their tone from Monroe, and committed themselves to these assertions of fact, than Callender printed the two letters which Jefferson had written to him,<sup>1</sup> which proved that not only had Jefferson given him at different times some two hundred dollars, but had also supplied information, of a harmless nature, for "The Prospect before us," and under an injunction of secrecy had encouraged Callender to write. His words were not to be explained away: "I thank you for the proof-sheets you enclosed me; such papers cannot fail to produce the best effect."<sup>2</sup>

No man who stood within the circle of the President's intimates could be perplexed to understand how this apparent self-contradiction might have occurred. Callender was neither the first nor the last to take advantage of what John Randolph called the "easy credulity" of Jefferson's temper. The nearest approach Jefferson could make toward checking an over-zealous friend was by shades of difference in the strength of his encouragement. To tell Callender that his book could not fail to produce the best effect was a way of hinting that it might do harm; and, however specious such an excuse might seem, this

<sup>1</sup> The Recorder, September-October, 1802.

<sup>2</sup> Jefferson to Callender, Oct. 6, 1799; Jefferson MSS.

language was in his mind consistent with a secret wish that Callender should not write. More than one such instance of this kindly prevarication, this dislike for whatever might seem harsh or disobliging, could be found in Jefferson's correspondence.

A man's enemies rarely invent specious theories of human nature in order to excuse what they prefer to look upon as falsehood and treason. July 17, 1803, Callender was drowned in some drunken debauch; but the Federalists never forgot his calumnies, or ceased ringing the changes on the President's self-contradictions, — and throughout New England the trio of Jefferson, Paine, and Callender were henceforward held in equal abhorrence. That this prejudice did not affect Jefferson's popular vote was true, but it seriously affected his social relations; and it annoyed and mortified him more than coarser men could understand, to feel in the midst of his utmost popularity that large numbers of his worthiest fellow-citizens, whose respect he knew himself to deserve, despised him as they did the vermin they trod upon.

In the ferment of the Callender scandal, October 29, Paine arrived from Europe. Unable to come by the "Maryland," he had waited a year, and then appeared at Baltimore. The Republican newspapers made the same blunder in regard to Paine which they had made in regard to Callender, — they denied at first that he had been invited to return in a Government ship, or that Jefferson had written him any such letter as was rumored; and they were altogether perplexed to

know how to deal with so dangerous an ally, until the President invited Paine to the White House and gave him all the support that political and social influence could command. In a few days the "National Intelligencer," Jefferson's more than semi-official organ, published the first of a series of letters addressed by Paine to the American people; and no one could longer doubt what kind of "useful labors" Jefferson had invited him to continue. Fourteen years of absence had not abated the vigor of that homely style which once roused the spirits of Washington's soldiers; and age lent increased virulence to powers of invective which had always been great. His new series of letters overflowed with abuse of the Federalists, and bristled with sarcasms on the Federalist Presidents. Unfortunately for Jefferson's object Paine had exhausted the effect of such weapons, which resemble the sting of a bee lost in the wound it makes. The bee dies of her own mutilation. Paine, too, was dying from the loss of his sting. Only once in any man's career could he enjoy the full pleasure of saying, as Paine said to President Washington: "You are treacherous in private friendship, and a hypocrite in public life." To repeat it in other forms, to fumble and buzz about a wound meant to be deadly, was to be tiresome and ridiculous. Paine, too, was no longer one of a weak minority struggling for freedom of speech or act; he represented power, and was the mouthpiece of a centralized Government striking at the last remnants of Puritan independence.

The glory of wounding Cæsar on his throne was one thing; that of adding one more stab to his prostrate body was another. Paine's weapon no longer caused alarm. The Federalist newspapers were delighted to reprint his letters, and to hold the President responsible for them. The clergy thundered from their pulpits. The storm of recrimination raged with noisy violence amid incessant recurrence to the trio of godless ruffians, — Jefferson, Paine, and Callender; but the only permanent result was to leave a fixed prejudice in the New England mind, — an ineradicable hatred for President Jefferson, in due time to bear poisonous fruit.

The summer of 1802 was a disappointment to Jefferson. He had hoped for better things. The time-servers and those voters whose love of nationality was stronger than their local interests or personal prejudices were for the most part drawn over to the Administration, — even Boston and Salem chose Republican Congressmen; yet Massachusetts as a whole was still Federalist, and of course, as the Federalists became fewer, the extreme wing became more influential in the party. The Essex Junto were still far from control, but they succeeded better than the moderate Federalists in holding their own. Thus these three influences in Massachusetts had nearly reached an equilibrium, and Jefferson was at a loss to understand why the growth of his popularity had been checked. He saw that provincial jealousies were strengthened, and this consequence of isolation he



chose to look upon as its cause. Even an ode of the Massachusetts poet Thomas Paine, whose better-known name of Robert Treat Paine recorded the political passions which caused him to petition for the change, served to console Jefferson for the partial defeat of his consolidating schemes. Paine's refrain ran, —

“Rule, New England! New England rules and saves!”

and this echo of Virginia sentiments in 1798, this shadowy suggestion of a New England Confederacy, jarred on the President's ear. Toward autumn he wrote to his friend Langdon, of New Hampshire:<sup>1</sup>—

“Although we have not yet got a majority into the fold of Republicanism in your State, yet one long pull more will effect it. We can hardly doubt that one twelve-month more will give an executive and legislature in that State whose opinions may harmonize with their sister States, — unless it be true, as is sometimes said, that New Hampshire is but a satellite of Massachusetts. In this last State the public sentiment seems to be under some influence additional to that of the clergy and lawyers. I suspect there must be a leaven of State pride at seeing itself deserted by the public opinion, and that their late popular song of ‘Rule, New England,’ betrays one principle of their present variance from the Union. But I am in hopes they will in time discover that the shortest road to rule is to join the majority.”

The struggle was full of interest; for if Jefferson had never yet failed to break down every opponent,

<sup>1</sup> Jefferson's Writings (Ford), viii. 160.

from King George III. to Aaron Burr, the New England oligarchy for near two hundred years were a fatal enemy to every ruler not of their own choice, from King Charles I. to Thomas Jefferson.

Had the clergy and lawyers, the poets and magistrates of Massachusetts been the only troublesome element with which Jefferson had to deal, the task of the Republican party would have been simple ; but virulent as party feeling was in New England during the summer of 1802, a feud broke out in New York which took a darker hue. Vice-President Burr, by his birthday toast to the " Union of honest men " and by his vote on the Judiciary Bill, flung down a challenge to the Virginians which De Witt Clinton, on their behalf, hastened to take up. With a violence that startled uninitiated bystanders, Cheetham in his " American Citizen " flung one charge after another at Burr : first his Judiciary vote ; then his birthday toast ; then the suppression of a worthless history of the last Administration written by John Wood, another foreign adventurer, whose book Burr bought in order, as Cheetham believed, to curry favor with the New England Federalists ; finally, with the rhetorical flourish of an American Junius, Cheetham charged that Burr had tried to steal the Presidency from Jefferson in February, 1801, when the House of Representatives was divided. All the world knew that not Cheetham, but De Witt Clinton thus dragged the Vice-President from his chair, and that not Burr's vices but his influence made his crimes heinous ;

that behind De Witt Clinton stood the Virginia dynasty, dangling Burr's office in the eyes of the Clinton family, and lavishing honors and money on the Livingstons. All this was as clear to Burr and his friends as though it were embodied in an Act of Congress. No one ever explained why Burr did not drag De Witt Clinton from his ambush and shoot him, as two years later he shot Alexander Hamilton with less provocation. At midsummer the city was startled by the report that John Swartwout the marshal, one of Burr's intimates, had charged Clinton with attacking the Vice-President from personal and selfish motives ; that Clinton had branded Swartwout as a liar, a scoundrel, and a villain ; that they had met at Weehawken, where, after lodging two bullets in his opponent, Clinton had flung down his pistol at the sixth shot, swearing that he would have no more to do with the bloody business. Among the stories current was one that Clinton had expressed regret at not having Swartwout's *principal* before his pistol. Swartwout, wounded as he was, returned directly to Burr's house. In the face of all this provocation, the Vice-President behaved with studied caution and reserve. Never in the history of the United States did so powerful a combination of rival politicians unite to break down a single man as that which arrayed itself against Burr ; for as the hostile circle gathered about him, he could plainly see not only Jefferson, Madison, and the whole Virginia legion, with Duane and his " Aurora " at their heels : not only De Witt Clinton

and his whole family interest, with Cheetham and his "Watchtower" by their side; but — strangest of companions — Alexander Hamilton himself joining hands with his own bitterest enemies to complete the ring.

Under the influence of these personal hatreds, which raged from the Penobscot to the Potomac, American politics bade fair to become a faction-fight. The President proposed no new legislation; he had come to the end of his economies, and was even beginning to renew expenditures; he had no idea of amending the Constitution or reconstructing the Supreme Court; he thought only of revolutionizing the State governments of New England.<sup>1</sup> "The path we have to pursue is so quiet, that we have nothing scarcely to propose to our Legislature," — so he wrote a few days before Congress was to meet. "If we can prevent the government from wasting the labors of the people under the pretence of taking care of them, they must become happy." The energy of reform was exhausted, the point of departure no longer in sight; the ever-increasing momentum of a governmental system required constant care; and with all this, complications of a new and unexpected kind began, which henceforward caused the chief interest of politics to centre in foreign affairs.

<sup>1</sup> Jefferson to Dr. Cooper, Nov. 29, 1802; Works, iv. 453.

### CHAPTER XIII.

MOST picturesque of all figures in modern history, Napoleon Bonaparte, like Milton's Satan on his throne of state, although surrounded by a group of figures little less striking than himself, sat unapproachable on his bad eminence; or, when he moved, the dusky air felt an unusual weight. His conduct was often mysterious, and sometimes so arbitrary as to seem insane; but later years have thrown on it a lurid illumination. Without the mass of correspondence and of fragmentary writings collected under the Second Empire in not less than thirty-two volumes of printed works, the greatness of Napoleon's energies or the quality of his mind would be impossible to comprehend. Ambition that ground its heel into every obstacle; restlessness that often defied common-sense; selfishness that eat like a cancer into his reasoning faculties; energy such as had never before been combined with equal genius and resources; ignorance that would have amused a school-boy; and a moral sense which regarded truth and falsehood as equally useful modes of expression,—an unprovoked war or secret assassination as equally natural forms of activity,—such a combination of qualities as Europe had forgotten since the Middle Ages, and

could realize only by reviving the Eccelinos and Alberics of the thirteenth century, had to be faced and overawed by the gentle optimism of President Jefferson and his Secretary of State.

As if one such character were not riddle enough for any single epoch, a figure even more sinister and almost as enigmatical stood at its side. On the famous 18th Brumaire, the 9th November, 1799, when Bonaparte turned pale before the Five Hundred, and retired in terror from the hall at St. Cloud, not so much his brother Lucien, or the facile Sieyès, or Barras, pushed him forward to destroy the republic, but rather Talleyrand, the ex-Bishop of Autun, the Foreign Secretary of the Directory. Talleyrand was most active in directing the *coup d'état*, and was chiefly responsible for the ruin of France.<sup>1</sup> Had he profited by his exile in America, he would have turned to Moreau rather than to Bonaparte; and some millions of men would have gone more quietly to their graves. Certainly he did not foresee the effects of his act; he had not meant to set a mere soldier on the throne of Saint Louis. He betrayed the republic only because he believed the republic to be an absurdity and a nuisance, not because he wanted a military despotism. He wished to stop the reign of violence and scandal, restore the glories of Louis XIV., and maintain France in her place at the head of civilization. To carry out these views was the work of a lifetime. Every successive government

<sup>1</sup> M. de Talleyrand, par Sainte-Beuve, p. 70.



was created or accepted by him as an instrument for his purposes ; and all were thrown aside or broke in his hands. Superior to Bonaparte in the breadth and steadiness of his purpose, Talleyrand was a theorist in his political principles ; his statecraft was that of the old *régime*, and he never forgave himself for having once believed in a popular revolution.

This was the man with whom Madison must deal, in order to reach the ear of the First Consul. In diplomacy, a more perplexing task could scarcely be presented than to fathom the policy which might result from the contact of a mind like Talleyrand's with a mind like Bonaparte's. If Talleyrand was an enigma to be understood only by those who lived in his confidence, Bonaparte was a freak of nature such as the world had seen too rarely to comprehend. His character was misconceived even by Talleyrand at this early period ; and where the keenest of observers failed to see through a mind he had helped to form, how were men like Jefferson and Madison, three thousand miles away, and receiving at best only such information as Chancellor Livingston could collect and send them every month or six weeks,—how were they, in their isolation and ignorance, to solve a riddle that depended on the influence which Talleyrand could maintain over Bonaparte, and the despotism which Bonaparte could establish over Talleyrand ?

Difficult as this riddle was, it made but a part of the problem. France had no direct means of con-

trolling American policy. Within the last four years she had tried to dictate, and received severe discipline. If France was a political factor of the first class in Jefferson's mind, it was not because of her armies or fleets, or her almost extinguished republican character, or her supposed friendship for Jefferson's party in its struggle with Anglican federalism. The 18th Brumaire severed most of these sentimental ties. The power which France wielded over American destinies sprang not from any direct French interest or fear of French arms, but from the control which Napoleon exercised over the Spanish government at Madrid. France alone could not greatly disturb the repose of Jefferson; but France, acting through Spain on the hopes and fears of the Southern States, exercised prodigious influence on the Union.

Don Carlos IV. reigned at Madrid,—a Bourbon, but an ally of the French republic, and since the 18th Brumaire a devoted admirer of the young Corsican who had betrayed the republic. So far as Don Carlos was king of Spain only, his name meant little to Americans; but as an American ruler his empire dwarfed that of the United States. From the sources of the Missouri and Mississippi to the borders of Patagonia, two American continents acknowledged his rule. From the mouth of the St. Mary's, southward and westward, the shores of Florida, Louisiana, Texas, and Mexico were Spanish; Pensacola, Mobile, and New Orleans closed all the rivers by which the United States could reach the gulf.

The valley of the Ohio itself, as far as Pittsburg, was at the mercy of the King of Spain; the flour and tobacco that floated down the Mississippi, or any of the rivers that fell into the Gulf, passed under the Spanish flag, and could reach a market only by permission of Don Carlos IV. Along an imaginary line from Fernandina to Natchez, some six hundred miles, and thence northward on the western bank of the Mississippi River to the Lake of the Woods, some fourteen hundred miles farther, Spanish authority barred the path of American ambition. Of all foreign Powers Spain alone stood in such a position as to make violence seem sooner or later inevitable even to the pacific Jefferson; and every Southern or Western State looked to the military occupation of Mobile, Pensacola, and New Orleans as a future political necessity.

By a sort of tacit agreement, the ordinary rules of American politics were admitted not to apply to this case. To obtain Pensacola, Mobile, and New Orleans, the warmest States-rights champions in the South, even John Taylor of Caroline and John Randolph of Roanoke, were ready to employ every instrument of centralization. On the Southern and Western States this eagerness to expel Spain from their neighborhood acted like a magnet, affecting all, without regard to theories or parties. The people of Kentucky, Tennessee, and Georgia could not easily admit restrictions of any sort; they were the freest of the free; they felt keenly their subjection to the arbi-

trary authority of a king, — and a king of Spain. They could not endure that their wheat, tobacco, and timber should have value only by sufferance of a Spanish official and a corporal's guard of Spanish soldiers at New Orleans and Mobile. Hatred of a Spaniard was to the Tennessean as natural as hatred of an Indian, and contempt for the rights of the Spanish government was no more singular than for those of an Indian tribe. Against Indians and Spaniards the Western settler held loose notions of law ; his settled purpose was to drive both races from the country, and to take their land.

Between the Americans and the Spaniards no permanent friendship could exist. Their systems were at war, even when the nations were at peace. Spain, France, and England combined in maintaining the old colonial system ; and Spain, as the greatest owner of American territory, was more deeply interested than any other Power in upholding the rule that colonies belonged exclusively to the mother country, and might trade only with her. Against this exclusive system, although it was one with which no foreign Power had the legal right to meddle, Americans always rebelled. Their interests required them to maintain the principles of free-trade ; and they persuaded themselves that they had a natural right to sell their produce and buy their home cargoes in the best market, without regard to protective principles. Americans were the professional smugglers of an age when smuggling was tolerated by custom. Occasion-

ally the laws were suddenly enforced, and the American trader was ruined ; but in war times the business was comparatively safe and the profits were large. Naturally Americans wanted the right to do always what they did by sufferance as neutrals ; and they were bent not only upon gaining foothold on the Gulf of Mexico, but on forcing Spain and England to admit them freely to their colonial ports. To do these two things they needed to do more. That the vast and inert mass of Spanish possessions in America must ultimately be broken up, became the cardinal point of their foreign policy. If the Southern and Western people, who saw the Spanish flag flaunted every day in their faces, learned to hate the Spaniard as their natural enemy, the Government at Washington, which saw a wider field, never missed an opportunity to thrust its knife into the joints of its unwieldy prey. In the end, far more than half the territory of the United States was the spoil of Spanish empire, rarely acquired with perfect propriety. To sum up the story in a single word, Spain had immense influence over the United States ; but it was the influence of the whale over its captors, — the charm of a huge, helpless, and profitable victim.

Throughout the period of Spain's slow decomposition, Americans took toward her the tone of high morality. They were ostensibly struggling for liberty of commerce ; and they avowed more or less openly their wish to establish political independence and popular rights throughout both continents. To them

Spain represented despotism, bigotry, and corruption; and they were apt to let this impression appear openly in their language and acts. They were persistent aggressors, while Spain, even when striking back, as she sometimes timidly did, invariably acted in self-defence. That the Spaniards should dread and hate the Americans was natural; for the American character was one which no Spaniard could like, as the Spanish character had qualities which few Americans could understand. Each party accused the other of insincerity and falsehood; but the Spaniards also charged the Americans with rapacity and shamelessness. In their eyes, United States citizens proclaimed ideas of free-trade and self-government with no other object than to create confusion, in order that they might profit by it.

With the characters of English and French rulers — of George III. and Bonaparte, Pitt, Canning, Castlereagh, and Talleyrand — Americans were more or less familiar. The face and mind of King George III. were almost as well known to them as those of George Washington. Of Spaniards and Spanish rulers Americans knew almost nothing; yet Spanish weaknesses were to enrich the Union with more than half a continent from the ruin of an empire which would hardly have felt the privation had it been the chief loss the Spanish Crown was forced to suffer.

Europe could show no two men more virtuous in their private lives than King George III. of England



and King Charles IV. of Spain. If personal purity was a test of political merit, these two rulers were the best of kings. Had George III. been born a Spanish prince, he might perhaps have grown into another Charles IV.; and Don Carlos was a kind of Spanish George. Every morning throughout the whole year King Charles rose at precisely five o'clock and heard Mass.<sup>1</sup> Occasionally he read a few minutes in some book of devotion, then breakfasted and went to his workrooms, where the most skilful gunsmiths in his kingdom were always busy on his hunting weapons. His armory was a part of his court; the gunsmiths, joiners, turners, and cabinet-makers went with him from Madrid to Aranjuez, and from Aranjuez to La Granja. Among them he was at his ease; taking off his coat, and rolling his shirt-sleeves up to the shoulder, he worked at a dozen different trades within the hour, in manner and speech as simple and easy as the workmen themselves. He was skilful with his tools, and withal a dilettante in his way, capable of enjoying not only the workmanship of a gunlock, but the beauties of his glorious picture-gallery,—the “*Fecondità*” of Titian, and the “*Hilanderas*” of Velasquez.

From his workshops he went to his stables, chatted familiarly with the grooms, and sometimes roughly found fault with them. After this daily duty was done, he received the Queen and the rest of his fam-

<sup>1</sup> Alquier to Talleyrand, 26 Vendémiaire, An ix. (Oct. 18, 1800); Archives des Aff. Etr. MSS.

ily, who came to kiss his hand, — a ceremony which took some ten minutes ; after which, precisely at noon, he sat down to dinner. He dined alone, eat enormously, and drank only water. “ Find if you can,” said the Spaniards, “ another king who never got out of his bed later than five o’clock ; never drank wine, coffee, or liqueur ; and in his whole life never so much as looked at any woman but his wife ! ” After dinner, every day at one o’clock, except when court etiquette interfered, King Charles set out, no matter what might be the weather, and drove post with guards and six coaches of companions to the ground where he was to shoot. Three hundred men drove the game toward him ; seven hundred men and five hundred horses were daily occupied in this task of amusing him. The expenses were enormous ; but the King was one of the best shots in Europe, and his subjects had reason to be grateful that his ambition took so harmless a path as the destruction of vast swarms of game.

From this sport he returned toward evening, and always found the Queen and the Court waiting his arrival. For some fifteen minutes he chatted with them ; then his ministers were admitted, each separately presenting his business, while the Queen was present ; and about half an hour was thus devoted to the welfare of many million subjects scattered in several continents. Cabinet councils were rare at this court, and no other council or assembly for legislative or executive purposes was imagined. Busi-

ness disposed of, Don Carlos took his violin, which was as dear to him as his gun,—although in playing he gave himself no trouble to keep time with the other musicians, but played faster or slower, without apparent consciousness. After music he sat down to cards, and played ombre with two old courtiers, who for fifteen years had been required to perform this daily service; and he regularly went to sleep with the cards in his hand. Almost as regularly the other players, as well as the lookers-on, went to sleep also, and aroused themselves only when the major-domo came to announce supper. This meal at an end, the King gave his orders for the next day, and at eleven o'clock went to bed.

Such, word for word, was the official account of the Spanish court given by the French minister at Madrid to his Government in the year 1800; but it told only half the story. Charles was a religious man, and strictly observed all the fasts of the Church. To rouse in his mind an invincible repugnance against any individual, one had only to say that such a person had no religion. He held the priesthood in deep respect; his own character was open and frank; he possessed the rare quality of being true at any cost to his given word; he was even shrewd in his way, with a certain amount of common-sense; but with all this he was a nullity, and his career was that of a victim. Far above all distinctions of rank or class, the King was alone in Spain, as isolated as an Eastern idol; even the great nobles who in the feudal

theory stood next him, and should have been his confidential advisers, appeared to have no more influence than ploughboys. So extreme was this isolation, even for the traditions of Spanish etiquette, that the Court believed it to be intentionally encouraged by the Queen, Doña Maria Luisa de Parma, who was supposed to have many reasons for keeping her husband under watch. The society of Madrid was never delicate in such matters, nor was there a court in Europe which claimed to be free from scandal; but hardened as Europe was to royal license, Queen Luisa became notorious from Madrid to Petersburg. Her conduct was the common talk of Spain, and every groom and chambermaid about the royal palaces had the list of the Queen's lovers at their tongue's end; yet Don Carlos shut his eyes and ears. Those who knew him best were first to reject the idea that this conduct was the mere blindness of a weak mind. Charles's religion, honor, personal purity, and the self-respect of a king of Spain made it impossible for him to believe ill of one who stood toward him in such a relation. Never for a moment was he known to swerve in his loyalty.

Of all supposed facts in history, scandal about women was the commonest and least to be trusted. Queen Luisa's character may have been good, notwithstanding the gossip of diplomats and courtiers; but her real or supposed vices, and her influence over the King had much to do with the fate of Louisiana. Sooner or later, no doubt, Louisiana must have be-

come a part of the American Union; but if court intrigues had little to do with actual results, they had, at least in Spain, everything to do with the way in which results were reached. At the court of Madrid the Queen was, in some respects, more influential than the King, and a man who was supposed to be one of the Queen's old lovers exercised the real authority of both.

In the year 1792 King Charles, then in his forty-fifth year, suddenly raised to the post of his prime minister a simple gentleman of his guard, Don Manuel Godoy, barely twenty-five years old. The scandalous chronicle of the court averred that two of the Queen's children bore on their faces incontrovertible evidence of their relation to Godoy. From 1792 until 1798 he was prime minister; he conducted a war with France, and made a treaty which procured for him the remarkable title of the *Principe de la Paz*,—the Prince of Peace. In 1798 he retired from office, but retained his personal favor. In 1800 he was not a minister, nor did even the scandal-mongers then charge him with improper relations with the Queen, for all were agreed that the Queen had found another lover. The stories of the palace were worthy of Saint-Simon. The King himself was far from refined in manners or conversation, and gave even to his favors some of the roughness of insults. If a servant suffered from any personal infirmity, he was forced to hear cruel derision from the King's lips; while the commonest of royal jokes was to slap cour-

tiers and grooms on the back with a violence that brought tears into their eyes, followed by shouts of royal laughter and by forced smiles from the victim. This roughness of manner was not confined to the King. Most of the stories told about the Queen would not bear repeating, and, whether true or false, reflected the rottenness of a society which could invent or believe them; but among the many tales echoed by the gentlemen and ladies who were nearest her chamber was one worthy of *Gil Blas*, and as such was officially reported to Talleyrand and Bonaparte. The Queen's favorite in the year 1800 was a certain Mallo, whom she was said to have enriched, and who, according to the women of the bed-chamber, beat her Majesty in return as though she were any common Maritornes. One day in that year, when the Prince of Peace had come to San Ildefonso to pay his respects to the King, and as usual was having his interview in the Queen's presence, Charles asked him a question: "Manuel," said the King, "what is this Mallo? I see him with new horses and carriages every day. Where does he get so much money?" "Sire," replied Godoy, "Mallo has nothing in the world; but he is kept by an ugly old woman who robs her husband to pay her lover." The King shouted with laughter, and turning to his wife, said: "Luisa, what think you of that?" "Ah, Charles!" she replied; "do you not know that Manuel is always joking?"

Europe rang with such stories, which were proba-



bly as old as the tales of folk-lore, but none the less characterized the moral condition of Spain. Whatever had been Godoy's relations with the Queen they had long ceased, yet the honors, the wealth, and the semi-royal position of the Prince of Peace still scandalized the world. According to the common talk of Madrid, his riches and profligacy had no limits; his name was a by-word for everything that was shameless and corrupt. A young man, barely thirty-three years old, on whose head fortune rained favors, in an atmosphere of corruption, was certainly no saint; yet this creature, Manuel Godoy, reeking with vice, epitome of the decrepitude and incompetence of Spanish royalty, was a mild, enlightened, and intelligent minister so far as the United States were concerned, capable of generosity and of courage, quite the equal of Pitt or Talleyrand in diplomacy, and their superior in resource. In the eyes of Spain, Godoy may have been the most contemptible of mortals; but American history cannot estimate his character so low.

Godoy negotiated the treaty of 1795 with the United States, and did it in order to redress the balance which Jay's treaty with England disturbed.<sup>1</sup> The Spanish treaty of 1795 never received the credit it deserved; its large concessions were taken as a matter of course by the American people, who assumed that Spain could not afford to refuse anything that America asked, and who resented the

<sup>1</sup> *Mémoires du Prince de la Paix*, iii. 36-38.

idea that America asked more than she had a right to expect. Fearing that the effect of Jay's treaty would throw the United States into the arms of England at a moment when Spain was about to declare war, Godoy conceded everything the Americans wanted. His treaty provided for a settlement of the boundary between Natchez and New Orleans; accepted the principle of "free ships, free goods," so obnoxious to England; gave a liberal definition of contraband such as Jay had in vain attempted to get from Lord Grenville; created a commission to settle the claims of American citizens against Spain on account of illegal captures in the late war; granted to citizens of the United States for three years the right to deposit their merchandise at New Orleans without paying duty; and pledged the King of Spain to continue this so-called *entrepôt*, or "right of deposit," at the same place if he found it not injurious to his interests, or if it were so, to assign some similar place of deposit on another part of the banks of the Mississippi.

This treaty came before the Senate at the same time with that which Jay negotiated with Lord Grenville; and in the midst of the bitter attacks made upon the British instrument, not a voice was raised against the Spanish. Every one knew that it was the most satisfactory treaty the United States had yet negotiated with any foreign Power; and if Frederick the Great of Prussia deserved praise for the liberality of his treaty of 1785, — a liberality which implied

no concessions and led to no consequences,—King Charles IV. had right to tenfold credit for the settlement of 1795.

If the Americans said but little on the subject, they felt the full value of their gain. Doubtless they grumbled because the Spanish authorities were slow to carry out the provisions of the treaty; but they had reason to know that this was not the fault of Godoy. Had France been as wisely directed as Spain, no delay would have occurred; but the French Directory resented the course taken by the United States in accepting Jay's treaty, and being angry with America, they turned a part of their wrath against Godoy. Before his American treaty was known to the world, Spain was driven to declare war against England, and thenceforth became an almost helpless appendage to France. The French government not only tried to prevent the delivery of the Spanish forts on the Mississippi, but, in defiance of law, French privateers made use of Spanish ports to carry on their depredations against American commerce; and scores of American vessels were brought into these ports and condemned by French consuls without right to exercise such a jurisdiction, while the Spanish government was powerless to interfere. In the end, Godoy's want of devotion to the interests of France became so evident that he could no longer remain prime minister. In March, 1798, he announced to King Charles that one of two measures must be chosen,—either Spain must prepare for a

rupture with France, or must be guided by a new ministry. His resignation was accepted, and he retired from office. Fortunately for the United States, the last days of his power were marked by an act of friendship toward them which greatly irritated Talleyrand. March 29, 1798, the Spanish posts on the eastern bank of the Mississippi were at last delivered to the United States government; and thus Godoy's treaty of 1795 was faithfully carried out.

## CHAPTER XIV.

IN July, 1797, eight months before Godoy's retirement from power at Madrid, Talleyrand became Minister for Foreign Affairs to the French Directory. If the Prince of Peace was a man of no morals, the ex-Bishop of Autun was one of no morality. Colder than Pitt, and hardly less corrupt than Godoy, he held theories in regard to the United States which differed from those of other European statesmen only in being more aggressive. Chateaubriand once said, "When M. Talleyrand is not conspiring, he traffics." The epigram was not an unfair description of Talleyrand's behavior toward the United States. He had wandered through America in the year 1794, and found there but one congenial spirit. "Hamilton avait deviné l'Europe," was his phrase: Hamilton had felt by instinct the problem of European conservatives. After returning from America and obtaining readmission to France, Talleyrand made almost his only appearance as an author by reading to the Institute, in April, 1797, a memoir upon America and the Colonial System.<sup>1</sup> This paper was the clew to his

<sup>1</sup> Mémoire, etc., lu à l'Institut National le 15 Germinal, An v. (April 4, 1797).

ambition, preparing his return to power by laying the foundation for a future policy. The United States, it said, were wholly English, both by tastes and by commercial necessity; from them France could expect nothing; she must build up a new colonial system of her own, — but “to announce too much of what one means to do, is the way not to do it at all.” In October Bonaparte announced a part of it in sending to the Directory the Treaty of Campo Formio as a step, he wrote,<sup>1</sup> to the destruction of England, and “the re-establishment of our commerce and our marine.”

France still coveted Louisiana, the creation of Louis XIV., whose name it bore, which remained always French at heart, although in 1763 France ceded it to Spain in order to reconcile the Spanish government to sacrifices in the treaty of Paris. By the same treaty Florida was given by Spain to England, and remained twenty years in English hands, until the close of the Revolutionary War, when the treaty of 1783 restored it to Spain. The Spanish government of 1783, in thus gaining possession of Florida and Louisiana together, aimed at excluding the United States, not France, from the Gulf. Indeed, when the Count de Vergennes wished to recover Louisiana for France, Spain was willing to return it, but asked a price which, although the mere reimbursement of expenses, exceeded the means of the French treasury, and only for that reason Louisiana remained a Spanish province. After Godoy's war with France, at the

<sup>1</sup> Correspondence, iii. 390.



Peace of Bâle the French Republic again tried to obtain the retrocession of Louisiana, but in vain. Nevertheless some progress was made, for by that treaty, July 22, 1795, Spain consented to cede to France the Spanish, or eastern, part of St. Domingo,—the cradle of her Transatlantic power, and the cause of yearly deficits to the Spanish treasury. Owing to the naval superiority of England, the French republic did not ask for immediate possession. Fearing Toussaint Louverture, whose personal authority in the French part of the island already required forbearance, France retained the title, and waited for peace. Again, in 1797, Carnot and Barthelemy caused the Directory to offer the King of Spain a magnificent bribe for Louisiana.<sup>1</sup> They proposed to take the three legations just wrung from the Pope, and joining them with the Duchy of Parma, make a principality for the son of the Duke of Parma, who had married a daughter of Don Carlos IV. Although this offer would have given his daughter a splendid position, Charles refused it, because he was too honest a churchman to share in the spoils of the Church.

These repeated efforts proved that France, and especially the Foreign Office, looked to the recovery of French power in America. A strong party in the Government aimed at restoring peace in Europe and extending French empire abroad. Of this party Talleyrand was, or aspired to be, the head; and his memoir, read to the Institute in April and July, 1797,

<sup>1</sup> Mémoires du Prince de la Paix, iii. 23.

was a cautious announcement of the principles to be pursued in the administration of foreign affairs which he immediately afterward assumed.

July 24, 1797, commissioners arrived from the United States to treat for a settlement of the difficulties then existing between the two countries; but Talleyrand refused to negotiate without a gift of twelve hundred thousand francs,—amounting to about two hundred and fifty thousand dollars. Two of the American commissioners, in the middle of April, 1798, returned home, and war seemed inevitable.

Thus the month of April, 1798, was a moment of crisis in American affairs. Talleyrand had succeeded in driving Godoy from office, and in securing greater subservience from his successor, Don Mariano Luis de Urquijo, who had been chief clerk in the Foreign Department, and who acted as Minister for Foreign Affairs. Simultaneously Talleyrand carried his quarrel with the United States to the verge of a rupture; and at the same time Godoy's orders compelled Governor Gayoso of Louisiana to deliver Natchez to the United States. The actual delivery of Natchez was hardly yet known in Europe; and the President of the United States at Philadelphia had but lately heard that the Spaniards were fairly gone, when Talleyrand drafted instructions for the Citizen Guillemardet, whom he was sending as minister to Madrid. These instructions offered a glimpse into the heart of Talleyrand's policy.<sup>1</sup>

<sup>1</sup> Instructions données au Citoyen Guillemardet, Prairial, An vi. (May 20—June 19, 1798); Archives des Aff. Étr. MSS.

“The Court of Madrid,” said he, “ever blind to its own interests, and never docile to the lessons of experience, has again quite recently adopted a measure which cannot fail to produce the worst effects upon its political existence and on the preservation of its colonies. The United States have been put in possession of the forts situated along the Mississippi which the Spaniards had occupied as posts essential to arrest the progress of the Americans in those countries.”

The Americans, he continued, meant at any cost to rule alone in America, and to exercise a preponderating influence in the political system of Europe, although twelve hundred leagues of ocean rolled between.

“Moreover, their conduct ever since the moment of their independence is enough to prove this truth: the Americans are devoured by pride, ambition, and cupidity; the mercantile spirit of the city of London ferments from Charleston to Boston, and the Cabinet of St. James directs the Cabinet of the Federal Union.”

Chateaubriand’s epigram came here into pointed application. Down to the moment of writing this despatch, Talleyrand had for some months been engaged in trafficking with these Americans, who were devoured by cupidity, and whom he had required to pay him two hundred and fifty thousand dollars for peace. He next conspired.

“There are,” he continued. “no other means of putting an end to the ambition of the Americans than that of shutting them up within the limits which Nature seems

to have traced for them ; but Spain is not in a condition to do this great work alone. She cannot, therefore, hasten too quickly to engage the aid of a preponderating Power, yielding to it a small part of her immense domains in order to preserve the rest."

This small gratuity consisted of the Floridas and Louisiana.

" Let the Court of Madrid cede these districts to France, and from that moment the power of America is bounded by the limit which it may suit the interests and the tranquillity of France and Spain to assign her. The French Republic, mistress of these two provinces, will be a wall of brass forever impenetrable to the combined efforts of England and America. The Court of Madrid has nothing to fear from France."

This scheme was destined to immediate failure, chiefly through the mistakes of its author ; for not only had Talleyrand, a few weeks before, driven the United States to reprisals, and thus sacrificed what was left of the French colonies in the West Indies, but at the same moment he aided and encouraged young Bonaparte to carry a large army to Egypt, with the idea, suggested by the Duc de Choiseul many years before, that France might find there compensation for the loss of her colonies in America. Two years were consumed in retrieving these mistakes. Talleyrand first discovered that he could not afford a war with the United States ; and even at the moment of writing these instructions to his minister at Madrid, he was engaged in conciliating

the American commissioner who still remained unwillingly at Paris. The unexpected revelation by the United States government of his demands for money roused him, May 30, to consciousness of his danger. He made an effort to recover his lost ground.<sup>1</sup> "I do not see what delay I could have prevented. I am mortified that circumstances have not rendered our progress more rapid." When Gerry coldly refused to hear these entreaties, and insisted upon receiving his passport, Talleyrand was in genuine despair. "You have not even given me an opportunity of proving what liberality the executive Directory would use on the occasion."<sup>2</sup> He pursued Gerry with entreaties to use his influence on the President for peace; he pledged himself that no obstacle should be put in the path of negotiation if the American government would consent to renew it. At first the Americans were inclined to think his humility some new form of insult; but it was not only real, it was unexampled. Talleyrand foresaw that his blunder would cost France her colonies, and this he could bear; but it would also cost himself his office, and this was more than he could endure. His fears proved true. A year later, July 20, 1799, he was forced to retire, with little hope of soon recovering his character and influence, except through subservience to some coming adventurer.

<sup>1</sup> Talleyrand to E. Gerry, June 27, 1798; State Papers, ii. 215.

<sup>2</sup> Talleyrand to E. Gerry, July 12, 1798; Ibid. 219.

Thus occurred a delay in French plans. By a sort of common agreement among the discontented factions at Paris, Bonaparte was recalled from Egypt. Landing at Fréjus early in October, 1799, a month afterward, November 9, he effected the *coup d'état* of the 18th Brumaire. He feared to disgust the public by replacing Talleyrand immediately in the office of foreign minister, and therefore delayed the appointment. "The place was naturally due to Talleyrand," said Napoleon in his memoirs,<sup>1</sup> "but in order not too much to shock public opinion, which was very antagonistic to him, especially on account of American affairs, Reinhard was kept in office for a short time." The delay was of little consequence, for internal reorganization preceded the establishment of a new foreign policy; and Talleyrand was in no haste to recall the blunders of his first experiment.

Although Talleyrand had mismanaged the execution of his plan, the policy itself was a great one. The man who could pacify Europe and turn the energies of France toward the creation of an empire in the New World was the more sure of success because, in the reactionary spirit of the time, he commanded the sympathies of all Europe in checking the power of republicanism in its last refuge. Even England would see with pleasure France perform this duty, and Talleyrand might safely count upon a tacit alliance to support him in curbing American democ

<sup>1</sup> Correspondance de Napoléon Premier, xxx. 330.



racy. This scheme of uniting legitimate governments in peaceful combination to crush the spirit of license ran through the rest of Talleyrand's political life, and wherever met, whether in France, Austria, or England, was the mark of the school which found its ablest chief in him.

The first object of the new policy was to restore the peace of Europe; and the energy of Bonaparte completed this great undertaking within two years after the 18th Brumaire. France was at variance with the United States, Great Britain, and Austria. Peace with Austria could be obtained only by conquering it; and after passing a winter in organizing his government, Bonaparte sent Moreau to attack the Austrians on the line of the Danube, while he himself was to take command in Italy. As yet diplomacy could not act with effect; but early in the spring, March 1, 1800, before campaigning began, new American commissioners reached Paris, rather as dictators than as suppliants, and informed Talleyrand that the President of the United States was still ready to take him at his word. They were received with marked respect, and were instantly met by French commissioners, at whose head was Joseph Bonaparte, the First Consul's brother. While their negotiations were beginning, Bonaparte left Paris, May 20, crossed the Alps, and wrung from the Austrians, June 14, a victory at Marengo, while Moreau on the Danube pressed from one brilliant success to another. Hurrying back to Paris, July 2, Bonaparte instantly be-

gan the negotiations for peace with Austria; and thus two problems were solved.

Yet Talleyrand's precipitation in pledging France to prompt negotiation with the United States became a source of annoyance to the First Consul, whose shrewder calculation favored making peace first with Europe, in order to deal with America alone, and dictate his own terms. His brother Joseph, who was but an instrument in Napoleon's hands, but who felt a natural anxiety that his first diplomatic effort should succeed, became alarmed at the First Consul's coldness toward the American treaty, and at the crisis of negotiation, when failure was imminent, tried to persuade him that peace with the United States was made necessary by the situation in Europe. Napoleon met this argument by one of his characteristic rebuffs. "You understand nothing of the matter," he said;<sup>1</sup> "within two years we shall be the masters of the world." Within two years, in fact, the United States were isolated. Nevertheless Joseph was allowed to have his way. The First Consul obstinately refused to admit in the treaty any claim of indemnity for French spoliations on American commerce; and the American commissioners as resolutely refused to abandon the claim. They in their turn insisted that the new treaty should abrogate the guaranties and obligations imposed on the United States government by the old French treaty of alliance in 1778; and although

<sup>1</sup> Mémoires de Miot de Melito, i. 288.

Bonaparte cared nothing for the guaranty of the United States, he retained this advantage in order that he might set it off against the claims. Thus the negotiators were at last obliged to agree, by the second article of the treaty, that these two subjects should be reserved for future negotiation; and Sept. 30, 1800, the Treaty of Morfontaine, as Joseph Bonaparte wished to call it, was signed. It reached America in the confusion of a presidential election which threatened to overthrow the government; but the Senate voted, Feb. 3, 1801, to ratify it, with the omission of the second article. The instrument, with this change, was then sent back to Paris, where Bonaparte in his turn set terms upon his ratification. He agreed to omit the second article, as the Senate wished, "provided that by this retrenchment the two States renounced the respective pretensions which are the object of the said article." The treaty returned to America with this condition imposed upon it, and Jefferson submitted it to the Senate, which gave its final approval Dec. 19, 1801.

Thus Bonaparte gained his object, and won his first diplomatic success. He followed an invariable rule to repudiate debts and claims wherever repudiation was possible. For such demands he had one formula:<sup>1</sup> "Give them a very civil answer, — that I will examine the claim, etc.; but of course one never pays that sort of thing." In this case he meant to extinguish the spoliation claims; and nothing could

<sup>1</sup> Gallatin's Writings, ii. 490.

be more certain than that he would thenceforward peremptorily challenge and resist any claim, direct or indirect, founded on French spoliations before 1800, and would allege the renunciation of Article II. in the treaty of Morfontaine as his justification. Equally certain was it that he had offered, and the Senate had approved his offer, to set off the guaranties of the treaty of alliance against the spoliation claims, — which gave him additional reason for rejecting such claims in future. The United States had received fair consideration from him for whatever losses American citizens had suffered.

Meanwhile the First Consul took action which concerned America more closely than any of the disputes with which Joseph Bonaparte was busied. However little admiration a bystander might feel for Napoleon's judgment or morals, no one could deny the quickness of his execution. Within six weeks after the battle of Marengo, without waiting for peace with the United States, England, or Austria, convinced that he held these countries in the hollow of his hand, he ordered <sup>1</sup> Talleyrand to send a special courier to the Citizen Alquier, French minister at Madrid, with powers for concluding a treaty by which Spain should retrocede Louisiana to France, in return for an equivalent aggrandizement of the Duchy of Parma. The courier was at once despatched, and returned with a promptitude and suc-

<sup>1</sup> Correspondance, vi. 415 ; Bonaparte to Talleyrand, July 22, 1800.

cess which ought to have satisfied even the restlessness of Bonaparte. The Citizen Alquier no sooner received his orders than he went to Señor Urquijo, the Spanish Secretary for Foreign Relations, and passing abruptly over the well-worn arguments in favor of retrocession, he bluntly told Urquijo to oppose it if he dared.

“‘France expects from you,’ I said to him,<sup>1</sup> ‘what she asked in vain from the Prince of Peace. I have dispersed the prejudice which had been raised against you in the mind of the French government. You are to-day distinguished by its esteem and its consideration. Do not destroy my work; do not deprive yourself of the only counterpoise which you can oppose to the force of your enemies. The Queen, as you know, holds by affection as much as by vanity to the aggrandizement of her house; she will never forgive you if you oppose an exchange which can alone realize the projects of her ambition,—for I declare to you formally that your action will decide the fate of the Duke of Parma, and should you refuse to cede Louisiana you may count on getting nothing for that Prince. You must bear in mind, too, that your refusal will necessarily change my relations with you. Obligated to serve the interests of my country and to obey the orders of the First Consul, who attaches the highest value to this retrocession, I shall be forced to receive for the first time the offers of service that will inevitably be made to me; for you may be sure that your enemies will not hesitate to profit by that occasion to increase their strength—already a very real force—

<sup>1</sup> Alquier to Talleyrand, 19 Thermidor, An viii. (Aug. 7, 1800); Archives des Aff. Étr. MSS.

by the weight of the French influence ; they will do what you will not do, and you will be abandoned at once by the Queen and by us.' ”

Urquijo's reply measured the degradation of Spain :

“ ‘ Eh ! who told you that I would not give you Louisiana ? But we must first have an understanding, and you must help me to convince the King. ’ ”

At this reply, which sounded like Beaumarchais' comedies, Alquier saw that his game was safe. “ Make yourself easy on that score,” he replied ; “ the Queen will take that on herself.” So the conference ended.

Alquier was right. The Queen took the task on herself, and Urquijo soon found that both King and Queen were anxious to part with Louisiana for their daughter's sake. They received the offer with enthusiasm, and lavished praises upon Bonaparte. The only conditions suggested by Urquijo were that the new Italian principality should be clearly defined, and that Spain should be guaranteed against the objections that might be made by other Governments.

Meanwhile Bonaparte reiterated his offer on a more definite scale. August 3, immediately after the interview with Urquijo, Alquier put the first demand on record in a note important chiefly because it laid incidental stress on Talleyrand's policy of restraining the United States : <sup>1</sup> —

<sup>1</sup> Note adressée par l'Ambassadeur de la République, etc., 15 Thermidor, An viii. (Aug. 3, 1800) ; Archives des Aff. Étr. MSS



“The progress of the power and population of America, and her relations of interest always maintained with England, may and must some day bring these two powers to concert together the conquest of the Spanish colonies. If national interest is the surest foundation for political calculations, this conjecture must appear incontestable. The Court of Spain will do, then, at once a wise and great act if it calls the French to the defence of its colonies by ceding Louisiana to them, and by replacing in their hands this outpost of its richest possessions in the New World.”

Before this note was written, the First Consul had already decided to supersede Alquier by a special agent who should take entire charge of this negotiation. July 28 he notified Talleyrand<sup>1</sup> that General Berthier, Bonaparte's right hand in matters of secrecy and importance, was to go upon the mission. Talleyrand drafted the necessary instructions,<sup>2</sup> which were framed to meet the fears of Spain lest the new arrangement should cause complications with other Powers; and toward the end of August Berthier started for Madrid, carrying a personal letter of introduction from the First Consul to King Charles<sup>3</sup> and the *projet* of a treaty of retrocession drawn by Talleyrand. This *projet* differed in one point from the scheme hitherto put forward, and,

<sup>1</sup> Correspondance, vi. 426; Bonaparte to Talleyrand, 9 Thermidor, An viii. (July 28, 1800).

<sup>2</sup> Rapport au Premier Consul, 6 Fructidor, An viii. (Aug. 24, 1800); Archives des Aff. Étr. MSS.

<sup>3</sup> Correspondance, vi. 445.

if possible, was still more alarming to the United States.<sup>1</sup>

“The French Republic,” it ran, “pledges itself to procure for the Duke of Parma in Italy an aggrandizement of territory to contain at least one million inhabitants; the Republic charges itself with procuring the consent of Austria and the other States interested, so that the Duke may be put in possession of his new territory at the coming peace between France and Austria. Spain on her side pledges herself to retrocede to the French Republic the colony of Louisiana, with the same extent it actually has in the hands of Spain, and such as it should be according to the treaties subsequently passed between Spain and other States. Spain shall further join to this cession that of the two Floridas, eastern and western, with their actual limits.”

Besides Louisiana and the two Floridas, Spain was to give France six ships of war, and was to deliver the provinces to France whenever the promised territory for the Duke of Parma should be delivered by France to Spain. The two Powers were further to make common cause against any person or persons who should attack or threaten them in consequence of executing their engagement.

In the history of the United States hardly any document, domestic or foreign, to be found in their archives has greater interest than this *projet*; for from it the United States must trace whatever legal

<sup>1</sup> Instructions au Général Berthier, 8 Fructidor, An viii. (Aug. 26, 1800); *Projet de Traité préliminaire et secret*, 10 Fructidor, An viii. (Aug. 28, 1800); Archives des Aff. Ètr. MSS.

title they obtained to the vast region west of the Mississippi. The treaties which followed were made merely in pursuance of this engagement, with such variations as seemed good for the purpose of carrying out the central idea of restoring Louisiana to France.

That the recovery of colonial power was the first of all Bonaparte's objects was proved not only by its being the motive of his earliest and most secret diplomatic step, but by the additional evidence that every other decisive event in the next three years of his career was subordinated to it. Berthier hastened to Madrid, and consumed the month of September, 1800, in negotiations. Eager as both parties were to conclude their bargain, difficulties soon appeared. So far as these concerned America, they rose in part from the indiscretion of the French Foreign Office, which announced the object of Berthier's mission in a Paris newspaper, and thus brought on Urquijo a demand from the American minister at Madrid for a categorical denial. Urquijo and Alquier could silence the attack only by denials not well calculated to carry conviction. This was not all. Alquier had been told to ask for Louisiana; Berthier was instructed to demand the Floridas and six ships of war in addition. The demand for the Floridas should have been made at first, if Bonaparte expected it to be successful. King Charles was willing to give back to France a territory which was French in character, and had come as the gift of France to his father; but

he was unwilling to alienate Florida, which was a part of the national domain. Urquijo told Berthier<sup>1</sup> that "for the moment the King had pronounced himself so strongly against the cession of any portion whatever of Florida as to make it both useless and impolitic to talk with him about it;" but he added that, "after the general peace, the King might decide to cede a part of the Floridas between the Mississippi and the Mobile, on the special demand which the First Consul might make for it." Berthier was embarrassed, and yielded.

Thus at last the bargain was put in shape. The French government held out the hope of giving Tuscany as the equivalent for Louisiana and six seventy-fours. If not Tuscany, the three legations, or their equivalent, were stipulated. The suggestion of Tuscany delighted the King and Queen. Thus far the secret was confined to the parties directly interested; but after the principle had been fixed, another person was intrusted with it. The Prince of Peace was suddenly called to the Palace by a message marked "luego, luego, luego!" — the sign of triple haste.<sup>2</sup> He found Don Carlos in a paroxysm of excitement; joy sparkled in his eyes. "Congratulate me," he cried, "on this brilliant beginning of Bonaparte's relations with Spain! The Prince-presumptive of Parma, my son-in-law and nephew, a Bourbon, is

<sup>1</sup> Rapport à l'Empereur, 28 Brumaire, An *xiii*. (Nov. 19, 1804); Archives des Aff. Étr. MSS.

<sup>2</sup> Mémoires, *iii*. 20, 55.

invited by France to reign, on the delightful banks of the Arno, over a people who once spread their commerce through the known world, and who were the controlling power of Italy,—a people mild, civilized, full of humanity; the classical land of science and art!” The Prince of Peace could only offer congratulations; his opinion was asked without being followed, and a few days later the treaty was signed.<sup>1</sup>

On the last day of September, 1800, Joseph Bonaparte signed the so-called Treaty of Morfontaine, which restored relations between France and the United States. The next day, October 1, Berthier signed at San Ildefonso the treaty of retrocession, which was equivalent to a rupture of the relations established four-and-twenty hours earlier. Talleyrand was aware that one of these treaties undid the work of the other. The secrecy in which he enveloped the treaty of retrocession, and the pertinacity with which he denied its existence showed his belief that Bonaparte had won a double diplomatic triumph over the United States.

Moreau’s great victory at Hohenlinden, December 3, next brought Austria to her knees. Joseph Bonaparte was sent to Lunéville in Lorraine, and in a few weeks negotiated the treaty which advanced another step the cession of Louisiana. The fifth article of this treaty, signed Feb. 9, 1801, deprived the actual Grand Duke of his Grand Duchy, and established

<sup>1</sup> *Traité préliminaire et secret*, Oct. 1, 1800; *Recueil de Traités de la France*, par De Clercq, i. 411.

the young Duke of Parma in Tuscany. To complete the transaction, Lucien Bonaparte was sent as ambassador to Madrid.

Lucien had the qualities of his race. Intelligent, vivacious, vain, he had been a Jacobin of the deepest dye; and yet his hands were as red with the crime of the 18th Brumaire as those of his brother Napoleon. Too troublesome at Paris to suit the First Consul's arbitrary views, he was sent to Spain, partly to remove him, partly to flatter Don Carlos IV. The choice was not wise; for Lucien neither could nor would execute in good faith the wishes of his dictatorial brother, and had no idea of subordinating his own interests to those of the man whose blunders on the 18th Brumaire, in his opinion, nearly cost the lives of both, and whose conduct since had turned every democrat in France into a conspirator. To make the selection still more dangerous, Lucien had scarcely reached Madrid before Urquijo was sent into retirement and Godoy restored to power in some anomalous position of general superintendence, supporting the burden, but leaving to Don Pedro Cevallos the title of Foreign Secretary. The secret of this restoration was told by Godoy himself with every appearance of truth.<sup>1</sup> The King insisted on his return, because Godoy was the only man who could hold his own against Bonaparte; and at that moment Bonaparte was threatening to garrison Spain with a French army, under pretence of a war with Portu-

<sup>1</sup> *Mémoires*, iii. 76-78.



gal. The measure showed that Charles IV. was not wanting in shrewdness, for Godoy was well suited to deal with Lucien. He was more subtle, and not less corrupt.

Lucien's first act was to negotiate a new treaty closing the bargain in regard to Parma and Tuscany. Here Godoy offered no resistance. The Prince of Parma was created King of Tuscany, and the sixth article provided that the retrocession of Louisiana should at once be carried out. This treaty was signed at Madrid, March 21, 1801. The young King and Queen of Tuscany — or, according to their title, of Etruria — were despatched to Paris. Lucien remained to overlook the affair of Portugal. To the extreme irritation of Napoleon, news soon came that the Prince of Peace had signed at Badajos, June 5, 1801, a treaty with Portugal, to which Lucien had put his name as ambassador of France, and which baffled Napoleon's military designs in the Peninsula.

Lucien, with inimitable effrontery, wrote to his brother two days later:<sup>1</sup> "For the treaty of Tuscany I have received twenty good pictures out of the Gallery of the Retiro for my gallery, and diamonds to the value of one hundred thousand crowns have been set for me. I shall receive as much more for the Peace of Portugal." Two hundred thousand crowns and twenty pictures from the Retiro, besides flattery that would have turned the head of Talleyrand himself, were what Lucien acknowledged receiv-

<sup>1</sup> Lucien Bonaparte et ses Mémoires, Th. Jung, ii. 104.

ing; but there was reason to believe that this was not all, and that the Prince of Peace gorged him with spoil, until he carried back to France wealth which made him the richest member of his family, and gave him an income of sixty or eighty thousand dollars a year. Godoy paid this price to save Spain for seven years.

The treaty of Badajos into which Godoy thus drew Lucien not only checked Napoleon's schemes, but came on the heels of other reverses which threatened to place the First Consul in an awkward position, unless he should hasten the general pacification to which he was tending. The assassination of his ally, the Czar Paul I. March 23, 1801, cost him the aid of Russia, as Godoy's return to power cost him the control of Spain. A few days after Paul's murder, April 9, 1801, Nelson crushed the Danish fleet at Copenhagen, and tore Denmark from his grasp. More serious than all, the fate of the French army which Bonaparte had left in Egypt could not be long delayed, and its capitulation would give a grave shock to his credit. All these reasons forced the First Consul to accept the check he had received from Godoy and Lucien, and to hasten peace with England; but he yielded with a bad grace. He was furious with Godoy.<sup>1</sup> "If this prince, bought by England, draws the King and Queen into measures contrary to the honor and interests of the republic, the last hour

<sup>1</sup> Correspondance, vii. 190; Bonaparte to Talleyrand, 21 Messidor, An ix. (July 10, 1801).

of the Spanish monarchy will have sounded." So he wrote to Talleyrand in anger at finding himself checked, and Talleyrand instructed Lucien accordingly.<sup>1</sup> Within a fortnight Bonaparte sent orders to London which rendered peace with England certain;<sup>2</sup> and without waiting to hear further, acting at length on the conviction that nothing could be gained by delay, he ordered Talleyrand to demand of the Court of Spain the authority to take possession of Louisiana.<sup>3</sup>

Supple and tenacious as any Corsican, Godoy's temper was perfect and his manners charming; he eluded Bonaparte with the skill and coolness of a picador. After causing the First Consul to stumble and fall on the very threshold of Portugal, Godoy kept Louisiana out of his control. As the affair then stood, surrender of Louisiana except at the sword's point would have been inexcusable. The young King of Etruria had been entertained at Paris by the First Consul with a patronizing hospitality that roused more suspicion than gratitude; he had been sent to Italy, and had there been told that he possessed a kingdom and wore a crown,—but French armies occupied the territory; French generals administered the government; no foreign Power recognized the new kingdom, and no vestige of royal authority went

<sup>1</sup> Lucien Bonaparte, Jung, ii. 466.

<sup>2</sup> Correspondance, vii. 200; Note à remettre à Lord Hawkesbury, 4 Thermidor, An ix. (July 23, 1801).

<sup>3</sup> Ibid.; Bonaparte to Talleyrand, 8 Thermidor, An ix. (July 27, 1801).

with the royal title. Godoy and Cevallos gave it to be understood that they did not consider the First Consul to have carried out his part of the bargain in such a sense as to warrant Charles IV. in delivering Louisiana. They were in the right; but Bonaparte was angrier than ever at their audacity, and drafted with his own hand the note which Talleyrand was to send in reply.<sup>1</sup>

“It is at the moment when the First Consul gives such strong proofs of his consideration for the King of Spain, and places a prince of his house on a throne which is fruit of the victories of French arms, that a tone is taken toward the French Republic such as might be taken with impunity toward the Republic of San Marino. The First Consul, full of confidence in the personal character of his Catholic Majesty, hopes that from the moment he is made aware of the bad conduct of some of his ministers, he will look to it, and will recall them to the sentiments of esteem and consideration which France does not cease to entertain for Spain. The First Consul will never persuade himself that his Catholic Majesty wishes to insult the French people and their Government at the moment when these are doing so much for Spain. This would suit neither his heart nor his loyalty, nor the interest of his crown.”

In a note written the same day to Talleyrand,<sup>2</sup> Bonaparte spoke in a still stronger tone of the “misér-

<sup>1</sup> Correspondance, vii. 225; Projets de Notes, 27 Thermidor, An ix. (15 Aug. 1801).

<sup>2</sup> Correspondance, vii. 226; Talleyrand to Saint Cyr, 16 Frimaire, An x. (6 Dec. 1801); Lucien Bonaparte, Jung, ii. 468.

able" who was thus crossing his path, and he ordered that Lucien should let the King and Queen know "that I am long-suffering, but that already I am warmly affected by this tone of contempt and deconsideration which is taken at Madrid; and that if they continue to put the republic under the necessity either of enduring the shame of the outrages publicly inflicted on it, or of avenging them by arms, they may see things they do not expect."

Nevertheless Godoy held his ground, well aware that the existence of Spain was at stake, but confident that concession would merely tempt encroachment. History might render what judgment it would of Godoy's character or policy,—with this moral or political question the United States had nothing to do; but Bonaparte's hatred of Godoy and determination to crush him were among the reasons why Louisiana fell at a sudden and unexpected moment into the hands of Jefferson, and no picture of American history could be complete which did not show in the background the figures of Bonaparte and Godoy, locked in struggle over Don Carlos IV.

## CHAPTER XV.

FORTUNATELY for the Prince of Peace, the world contained at that moment one man for whom Bonaparte entertained more hatred and contempt, and whom he was in still more haste to crush. The policy which Talleyrand had planned, and into which he had drawn the First Consul, could not be laid aside in order to punish Spain. On the contrary, every day rendered peace with England more necessary, and such a peace was inconsistent with a Spanish war. That Bonaparte felt no strong sympathy with Talleyrand's policy of peace in Europe and peaceful development abroad, is more than probable; but he was not yet so confident of his strength as to rely wholly on himself,—he had gone too far in the path of pacification to quit it suddenly for one of European conquest and dynastic power. He left Godoy and Spain untouched, in order to rebuild the empire of France in her colonies. Six weeks after he had threatened war on Charles IV., his agent at London, Oct. 1, 1801, signed with Lord Hawkesbury preliminary articles of peace which put an end to hostilities on the ocean. No sooner did Bonaparte receive the news<sup>1</sup> than he summoned his

<sup>1</sup> Correspondance, vii. 279; Bonaparte to Berthier, 16 Vendémiaire, An x. (Oct. 8, 1801).



brother-in-law Leclerc to Paris. Leclerc was a general of high reputation, who had married the beautiful Pauline Bonaparte and was then perhaps the most promising member of the family next to Napoleon himself. To him, October 23, Napoleon entrusted the command of an immense expedition already ordered to collect at Brest, to destroy the power of Toussaint Louverture and re-establish slavery in the Island of St. Domingo.<sup>1</sup>

The story of Toussaint Louverture has been told almost as often as that of Napoleon, but not in connection with the history of the United States, although Toussaint exercised on their history an influence as decisive as that of any European ruler. His fate placed him at a point where Bonaparte needed absolute control. St. Domingo was the only centre from which the measures needed for rebuilding the French colonial system could radiate. Before Bonaparte could reach Louisiana he was obliged to crush the power of Toussaint.

The magnificent Island of St. Domingo was chiefly Spanish. Only its western end belonged by language as well as by history to France; but this small part of the island, in the old days of Bourbon royalty, had been the most valuable of French possessions. Neither Martinique nor Guadeloupe compared with it. In 1789, before the French Revolution began, nearly two thirds of the commercial interests of France

<sup>1</sup> Correspondance, vii. 298. Bonaparte to Berthier, 1 Brumaire, An x. (23 Oct. 1801).

centred in St. Domingo;<sup>1</sup> its combined exports and imports were valued at more than one hundred and forty million dollars; its sugar, coffee, indigo, and cotton supplied the home market, and employed in prosperous years more than seven hundred ocean-going vessels, with seamen to the number, it was said, of eighty thousand. Paris swarmed with creole families who drew their incomes from the island, among whom were many whose political influence was great; while, in the island itself, society enjoyed semi-Parisian ease and elegance, the natural product of an exaggerated slave-system combined with the manners, ideas, and amusements of a French proprietary caste.

In 1789 the colony contained about six hundred thousand inhabitants, five sixths of whom were full-blooded negroes held in rigid slavery. Of the eighty or hundred thousand free citizens, about half were mulattoes, or had some infusion of negro blood which disqualified them from holding political power. All social or political privileges were held by forty or fifty thousand French creoles, represented by the few hundred planters and officials who formed the aristocracy of the island. Between the creoles and the mulattoes, or mixed-breeds, existed the jealousy sure to result from narrow distinctions of blood marking broad differences in privilege. These were not the only jealousies which raged in the colony; for the creoles were uneasy under the despotism of the colonial system, and claimed political rights which the

<sup>1</sup> Pamphile de Lacroix, *Mémoires*, ii. 277.

home government denied. Like all colonists of that day, in the quiet of their plantations they talked of independence, and thought with envy of their neighbors in South Carolina, who could buy and sell where they pleased.

When in 1789 France burst into a flame of universal liberty, the creoles of St. Domingo shared the enthusiasm so far as they hoped to gain by it a relaxation of the despotic colonial system; but they were alarmed at finding that the mulattoes, who claimed to own a third of the land and a fourth of the personalty in the colony, offered to make the Republic a free gift of one fifth of their possessions on condition of being no longer subjected to the creole tyranny of caste. The white and mulatto populations were thus brought into collision. The National Assembly of France supported the mulattoes. The creoles replied that they preferred death to sharing power with what they considered a bastard and despicable race. They turned royalists. Both parties took up arms, and in their struggle with each other they at length dropped a match into the immense powder-magazine upon which they both lived. One August night in the year 1791 the whole plain of the north was swept with fire and drenched with blood. Five hundred thousand negro slaves in the depths of barbarism revolted, and the horrors of the massacre made Europe and America shudder.

For several years afterward the colony was torn by convulsions; and to add another element of confu-

sion, the Spaniards and English came in, hoping to effect its conquest. Feb. 4, 1794, the National Assembly of France took the only sensible measure in its power by proclaiming the abolition of slavery; but for the moment this step only embroiled matters the more. Among its immediate results was one of great importance, though little noticed at the time. A negro chief, who since the outbreak had become head of a royalist band in Spanish pay, returned, in April, 1794, within French jurisdiction and took service under the Republic. This was Toussaint Louverture, whose father, the son of a negro chief on the slave-coast of Africa, had been brought to St. Domingo as a slave. Toussaint was born in 1746. When he deserted the Spanish service, and with some four thousand men made the sudden attack which resulted in clearing the French colony of Spanish troops, he was already forty-eight years old.

Although Toussaint was received at once into the French service, not until more than a year later, July 23, 1795, did the National Convention recognize his merits by giving him the commission of brigadier-general. Within less than two years, in May, 1797, he was made General-in-Chief, with military command over the whole colony. The services he rendered to France were great, and were highly rewarded. His character was an enigma. Hated by the mulattoes with such vindictiveness as mutual antipathies and crimes could cause, he was liked by the whites rather because he protected and flattered them at the

expense of the mulattoes than because they felt any love for him or his race. In return they flattered and betrayed him. Their praise or blame was equally worthless; yet to this rule there were exceptions. One of the best among the French officers in St. Domingo, Colonel Vincent, was deep in Toussaint's confidence, and injured his own career by obstinate attempts to intervene between Bonaparte and Bonaparte's victim. Vincent described Toussaint, in colors apparently unexaggerated, as the most active and indefatigable man that could be imagined, — one who was present everywhere, but especially where his presence was most needed; while his great sobriety, his peculiar faculty of never resting, of tiring out a half-dozen horses and as many secretaries every day; and, more than all, his art of amusing and deceiving all the world, — an art pushed to the limits of imposture, — made him so superior to his surroundings that respect and submission to him were carried to fanaticism.<sup>1</sup>

Gentle and well-meaning in his ordinary relations, vehement in his passions, and splendid in his ambition, Toussaint was a wise, though a severe, ruler so long as he was undisturbed; but where his own safety or power was in question he could be as ferocious as Dessalines and as treacherous as Bonaparte. In more respects than one his character had a curious resemblance to that of Napoleon, — the same abnormal energy of body and mind; the same morbid lust for

<sup>1</sup> Vie de Toussaint, par Saint-Remy, p. 322.

power, and indifference to means ; the same craft and vehemence of temper ; the same fatalism, love of display, reckless personal courage, and, what was much more remarkable, the same occasional acts of moral cowardice. One might suppose that Toussaint had inherited from his Dahomey grandfather the qualities of primitive society ; but if this was the case, the conditions of life in Corsica must have borne some strong resemblance to barbarism, because the rule of inheritance which applied to Toussaint should hold good for Bonaparte. The problem was the more interesting because the parallelism roused Napoleon's anger, and precipitated a conflict which had vast influence on human affairs. Both Bonaparte and Louverture were the products of a revolution which gave its highest rewards to qualities of energy and audacity. So nearly identical were the steps in their career, that after the 18th Brumaire Toussaint seemed naturally to ape every action which Bonaparte wished to make heroic in the world's eyes. There was reason to fear that Toussaint would end in making Bonaparte ridiculous ; for his conduct was, as it seemed to the First Consul, a sort of negro travesty on the consular *régime*.

When the difficulties between France and America became serious, after Talleyrand's demand for money and sweeping attacks upon American commerce, Congress passed an Act of June 13, 1798, suspending commercial relations with France and her dependencies. At that time Toussaint, although in title only General-in-Chief, was in reality absolute ruler of St.



Domingo. He recognized a general allegiance to the French Republic, and allowed the Directory to keep a civil agent — the Citizen Roume — as a check on his power; but in fact Roume was helpless in his hands. Toussaint's only rival was Rigaud, a mulatto, who commanded the southern part of the colony, where Jacmel and other ports were situated. Rigaud was a perpetual danger to Louverture, whose safety depended on tolerating no rival. The Act of Congress threatened to create distress among the blacks and endanger the quiet of the colony; while Rigaud and the French authority would be strengthened by whatever weakened Louverture. Spurred both by fear and ambition, Toussaint took the character of an independent ruler. The United States government, counting on such a result, had instructed its consul to invite an advance; and, acting on the consul's suggestion, Toussaint sent to the United States an agent with a letter to the President<sup>1</sup> containing the emphatic assurance that if commercial intercourse were renewed between the United States and St. Domingo it should be protected by every means in his power. The trade was profitable, the political advantages of neutralizing Toussaint were great; and accordingly the President obtained from Congress a new Act, approved Feb. 9, 1799, which was intended to meet the case. He also sent a very able man — Edward Stevens — to St. Domingo, with the title of Consul-

<sup>1</sup> Toussaint to President Adams, 16 Brumaire, An vii. (Nov. 6, 1798); MSS. State Department Archives.

General, and with diplomatic powers. At the same time the British Ministry despatched General Maitland to the same place, with orders to stop at Philadelphia and arrange a general policy in regard to Toussaint. This was rapidly done. Maitland hurried to the island, which he reached May 15, 1799, within a month after the arrival of Stevens. Negotiations followed, which resulted, June 13, in a secret treaty<sup>1</sup> between Toussaint and Maitland, by which Toussaint abandoned all privateering and shipping, receiving in return free access to those supplies from the United States which were needed to content his people, fill his treasury, and equip his troops.

To this treaty Stevens was not openly a party; but in Toussaint's eyes he was the real negotiator, and his influence had more to do with the result than all the ships and soldiers at Maitland's disposal. Under this informal tripartite agreement, Toussaint threw himself into the arms of the United States, and took an enormous stride toward the goal of his ambition,—a crown.

Louverture had waited only to complete this arrangement before attacking Rigaud. Then the fruits of his foreign policy ripened. Supplies of every kind flowed from the United States into St. Domingo; but supplies were not enough. Toussaint began the siege of Jacmel,—a siege famous in Haytian history. His position was hazardous. A difficult war in a remote province, for which he could not bring the necessary

<sup>1</sup> Treaty of June 13, 1799; MSS. State Department Archives.

supplies and materials by land; a suspicious or hostile French agent and government; a population easily affected by rumors and intrigues; finally, the seizure by English cruisers of a flotilla which, after his promise to abandon all shipping, was bringing his munitions of war along the coast for the siege, — made Toussaint tremble for the result of his civil war. He wrote once more to the President,<sup>1</sup> requesting him to send some frigates to enforce the treaty by putting an end to all trade with the island except such as the treaty permitted. Stevens again came to his assistance. The United States frigate, "General Greene," was sent to cruise off Jacmel in February and March, 1800, and was followed by other vessels of war. Rigaud's garrison was starved out; Jacmel was abandoned; and Rigaud himself, July 29, 1800, consented to quit the country.

Toussaint's gratitude was great, and his confidence in Stevens unbounded. Even before the fall of Jacmel, Stevens was able to inform Secretary Pickering that Toussaint was taking his measures slowly but certainly to break connection with France.<sup>2</sup> "If he is not disturbed, he will preserve appearances a little longer; but as soon as France interferes with this colony, he will throw off the mask and declare it independent." Hardly was Rigaud crushed, when the

<sup>1</sup> Toussaint to President Adams, Aug. 14, 1799; MSS. State Department Archives.

<sup>2</sup> Stevens to Pickering, Feb. 13, 1800; MSS. State Department Archives.

first overt act of independence followed. Toussaint imprisoned Roume, and on an invitation from the municipalities assumed the civil as well as military authority, under the title of governor. In announcing to his Government that this step was to be taken, Stevens added :<sup>1</sup> "From that moment the colony may be considered as forever separated from France. Policy perhaps may induce him to make no open declaration of independence before he is compelled." A few days afterward Toussaint took the Napoleonic measure of seizing by force the Spanish part of the island, which had been ceded to France by the treaty of Bâle five years before, but had not yet been actually transferred. In thus making war on the ally of France, Toussaint had no other motive, as Stevens explained,<sup>2</sup> than to prevent the French government from getting a footing there. Bonaparte had given a new Constitution to France after the 18th Brumaire. Toussaint, after the deposition of Roume, which was his *coup d'état* and 18th Brumaire, gave a new Constitution to St. Domingo in the month of May, 1801, by which he not only assumed all political power for life, but also ascribed to himself the right of naming his own successor. Bonaparte had not yet dared to go so far, although he waited only another year, and meanwhile chafed under the idea of being imitated by one whom he called a "gilded African."

<sup>1</sup> Stevens to Pickering, April 19, 1800; MSS. State Department Archives.

<sup>2</sup> Ibid.

Perhaps audacity was Louverture's best policy; yet no wise man would intentionally aggravate his own dangers by unnecessary rashness, such as he showed in Bonaparte's face. He was like a rat defying a ferret; his safety lay not in his own strength, but in the nature of his hole. Power turned his head, and his regular army of twenty thousand disciplined and well-equipped men was his ruin. All his acts, and much of his open conversation, during the years 1800 and 1801, showed defiance to the First Consul. He prided himself upon being "First of the Blacks" and "Bonaparte of the Antilles." Warning and remonstrance from the Minister of Marine in France excited only his violent anger.<sup>1</sup> He insisted upon dealing directly with sovereigns, and not with their ministers, and was deeply irritated with Bonaparte for answering his letters through the Minister of Marine. Throwing one of these despatches aside unopened, he was heard to mutter before all his company the words, "*Ministre! . . . valet! . . .*"<sup>2</sup> He was right in the instinct of self-assertion, for his single hope lay in Bonaparte's consent to his independent power; but the attack on Spanish St. Domingo, and the proclamation of his new Constitution, were unnecessary acts of defiance.

When Jefferson became President of the United States and the Senate confirmed the treaty of Mor-

<sup>1</sup> Stevens to Pickering, May 24, 1800; MSS. State Department Archives.

<sup>2</sup> Pamphile de Lacroix, *Mémoires*, ii. 52.

fontaine, had Louverture not lost his balance he would have seen that Bonaparte and Talleyrand had out-manœuvred him, and that even if Jefferson were not as French in policy as his predecessor had been hostile to France, yet henceforth the United States must disregard sympathies, treat St. Domingo as a French colony, and leave the negro chief to his fate. England alone, after the month of February, 1801, stood between Toussaint and Bonaparte. Edward Stevens, who felt the storm that was in the air, pleaded ill-health and resigned his post of consul-general. Jefferson sent Tobias Lear to Cap Français in Stevens's place, and Lear's first interview showed that Toussaint was beginning to feel Talleyrand's restraints. The freedom he had enjoyed was disappearing, and he chafed at the unaccustomed limitations. He complained bitterly that Lear had brought him no personal letter from the President; and Lear in vain explained the custom of the Government, which warranted no such practice in the case of consuls. "It is because of my color!" cried Toussaint.<sup>1</sup> Justice to President Jefferson and a keener sense of the diplomatic situation would have shown him that such a letter could not be written by the President consistently with his new relations of friendship toward France; and in fact almost the first act of Pichon, on taking charge of the French Legation in Washington after the treaty, was to re-

<sup>1</sup> Lear to Madison, July, 1801; MSS. State Department Archives.



monstrate against any recognition of Toussaint, and to cause Lear's want of diplomatic character which offended Louverture.<sup>1</sup>

Rarely has diplomacy been used with more skill and energy than by Bonaparte, who knew where force and craft should converge. That in this skill mendacity played a chief part, need hardly be repeated. Toussaint was flattered, cajoled, and held in a mist of ignorance, while one by one the necessary preparations were made to prevent his escape; and then, with scarcely a word of warning, at the First Consul's order the mist rolled away, and the unhappy negro found himself face to face with destruction. The same ships that brought news of the preliminary treaty signed at London brought also the rumor of a great expedition fitting at Brest and the gossip of creole society in Paris, which made no longer a secret that Bonaparte meant to crush Toussaint and restore slavery at St. Domingo. Nowhere in the world had Toussaint a friend or a hope except in himself. Two continents looked on with folded arms, more and more interested in the result, as Bonaparte's ripening schemes began to show their character. As yet President Jefferson had no inkling of their meaning. The British government was somewhat better informed, and perhaps Godoy knew more than all the rest; but none of them grasped the whole truth, or felt their own dependence on Tous-

<sup>1</sup> Pichon to Decrès, 18 Fructidor, An ix. (Sept. 5, 1801); Archives de la Marine, MSS.

saint's courage. If he and his blacks should succumb easily to their fate, the wave of French empire would roll on to Louisiana and sweep far up the Mississippi; if St. Domingo should resist, and succeed in resistance, the recoil would spend its force on Europe, while America would be left to pursue her democratic destiny in peace.

Bonaparte hurried his preparations. The month of October, 1801, saw vast activity in French and Spanish ports, for a Spanish squadron accompanied the French fleet. Not a chance was to be left for Toussaint's resistance or escape. To quiet English uneasiness, Bonaparte dictated to Talleyrand a despatch explaining to the British government the nature of the expedition.<sup>1</sup> "In the course which I have taken of annihilating the black government at St. Domingo," he said, "I have been less guided by considerations of commerce and finance than by the necessity of stifling in every part of the world every kind of germ of disquiet and trouble; but it could not escape me that St. Domingo, even after being reconquered by the whites, would be for many years a weak point which would need the support of peace and of the mother country; . . . that one of the principal benefits of peace, at the actual moment, for England was its conclusion at a time when the French government had not yet recognized the organization of St. Domingo, and in consequence the power of the blacks; and if it had

<sup>1</sup> Correspondance, vii. 319; Bonaparte to Talleyrand, 22 Brumaire, An x. (Nov. 13, 1801).

done so, the sceptre of the new world would sooner or later have fallen into the hands of the blacks."

No such explanations were given to the United States, perhaps because no American minister asked for them. Livingston landed at Lorient November 12, the day before Bonaparte wrote these words; Leclerc's expedition sailed from Brest November 22; and Livingston was presented to the First Consul in the diplomatic audience of December 6. Caring nothing for Toussaint and much for France, Livingston did not come prepared to find that his own interests were the same with those of Toussaint, but already by December 30 he wrote to Rufus King: "I know that the armament, destined in the first instance for Hispaniola, is to proceed to Louisiana provided Toussaint makes no opposition."

While the First Consul claimed credit with England for intending to annihilate the black government and restore slavery at St. Domingo, he proclaimed to Toussaint and the negroes intentions of a different kind. He wrote at last a letter to Toussaint, and drew up a proclamation to the inhabitants of the island, which Leclerc was to publish. "If you are told," said this famous proclamation,<sup>1</sup> "that these forces are destined to ravish your liberty, answer: The Republic has given us liberty, the Republic will not suffer it to be taken from us!" The letter to Toussaint was even more curious, when considered

<sup>1</sup> Correspondance, vii. 315; Proclamation, 17 Brumaire, An x. (Nov. 8, 1801).

as a supplement to that which had been written to the British government only five days before. "We have conceived esteem for you," wrote Bonaparte to the man he meant to destroy,<sup>1</sup> "and we take pleasure in recognizing and proclaiming the great services you have rendered to the French people. If their flag floats over St. Domingo, it is to you and to the brave blacks that they owe it." Then, after mildly disapproving certain of Toussaint's acts, and hinting at the fatal consequences of disobedience, the letter continued: "Assist the Captain-General [Leclerc] with your counsels, your influence, and your talents. What can you desire? — the liberty of the blacks? You know that in all the countries where we have been, we have given it to the peoples who had it not." In order to quiet all alarms of the negroes on the subject of their freedom, a pledge still more absolute was given in what Americans might call the Annual Message sent to the French Legislature a week afterward. "At St. Domingo and at Guadeloupe there are no more slaves. All is free there; all will there remain free."<sup>2</sup>

A few days afterward Leclerc's expedition sailed; and the immense fleet, with an army of ten thousand men and all their equipments, arrived in sight of St. Domingo at the close of January, 1802. Toussaint

<sup>1</sup> Correspondance, vii. 322; Bonaparte to Toussaint, 27 Brumaire, An x. (Nov. 18, 1801).

<sup>2</sup> Ibid., 327; Exposé de la situation de la République, 1 Frimaire, An x. (Nov. 22, 1801).

was believed to have watched them from a look-out in the mountains while they lay for a day making their preparations for combined action. Then Leclerc sailed for Cap Français, where Christophe commanded. After a vain attempt to obtain possession of the town as a friend, he was obliged to attack. February 5 Christophe set the place in flames, and the war of races broke out.

The story of this war, interesting though it was, cannot be told here. Toussaint's resistance broke the force of Bonaparte's attack. Although it lasted less than three months, it swept away one French army, and ruined the industry of the colony to an extent that required years of repair. Had Toussaint not been betrayed by his own generals, and had he been less attached than he was to civilization and despotic theories of military rule, he would have achieved a personal triumph greater than was won by any other man of his time. His own choice was to accept the war of races, to avoid open battle where his troops were unequal to their opponents, and to harass instead of fighting in line. He would have made a war of guerillas, stirred up the terror and fanaticism of the negro laborers, put arms into their hands, and relied on their courage rather than on that of his army. He let himself be overruled. "Old Toussaint," said Christophe afterward, "never ceased saying this, but no one would believe him. We had arms; pride in using them destroyed us."<sup>1</sup> Christophe, for good

<sup>1</sup> Pamphile de Lacroix, *Mémoires*, ii. 228.

reasons, told but half the story. Toussaint was not ruined by a few lost battles, but by the treachery of Christophe himself and of the other negro generals. Jealous of Toussaint's domination, and perhaps afraid of being sent to execution like Moyse — the best general officer in their service — for want of loyalty to his chief, Christophe, after one campaign, April 26, 1802, surrendered his posts and forces to Leclerc without the knowledge and against the orders of Toussaint. Then Louverture himself committed the fatal mistake of his life, which he of all men seemed least likely to commit, — he trusted the word of Bonaparte. May 1, 1802, he put himself in Leclerc's hands in reliance on Leclerc's honor.

Surprising as such weakness was in one who had the sensitiveness of a wild animal to danger, — Leclerc himself seemed to be as much surprised that the word of honor of a French soldier should be believed as any bystander at seeing the negro believe it, — the act had a parallel in the weakness which led Bonaparte, twelve years afterward, to mount the deck of the "Bellerophon," and without even the guaranty of a pledge surrender himself to England. The same vacillations and fears, the same instinct of the desperate political gambler, the same cowering in the face of fate, closed the active lives of both these extraordinary men. Such beings should have known how to die when their lives were ended. Toussaint should have fought on,



even though only to perish under the last cactus on his mountains, rather than trust himself in the hands of Bonaparte.

The First Consul's orders to Leclerc were positive, precise, and repeated.<sup>1</sup> "Follow exactly your instructions," said he, "and the moment you have rid yourself of Toussaint, Christophe, Dessalines, and the principal brigands, and the masses of the blacks shall be disarmed, send over to the continent all the blacks and mulattoes who have played a *rôle* in the civil troubles. . . . Rid us of these gilded Africans, and we shall have nothing more to wish."<sup>2</sup> With the connivance and at the recommendation of Christophe, by a stratagem such as Bonaparte used afterward in the case of the Duc d'Enghien and of Don Carlos IV., Toussaint was suddenly arrested, June 10, 1802, and hurried on ship-board. Some weeks later he was landed at Brest; then he disappeared. Except a few men who were in the secret, no one ever again saw him. Plunged into a damp dungeon in the fortress of Joux, high in the Jura Mountains on the Swiss frontier, the cold and solitude of a single winter closed this tropical existence. April 7, 1803, he died forgotten, and his work died with him. Not by Toussaint, and still less by Christophe or Dessalines, was the liberty of the blacks

<sup>1</sup> Correspondance, vii. 413; Bonaparte to Leclerc, 25 Ventôse, An x. (March 16, 1802).

<sup>2</sup> Ibid., 503, 504; Bonaparte to Leclerc, 12 Messidor, An x. (July 1, 1802).

finally established in Hayti, and the entrance of the Mississippi barred to Bonaparte.

The news of Leclerc's success reached Paris early in June,<sup>1</sup> and set Bonaparte again in motion. Imagining that the blacks were at his mercy, orders were at once issued to provide for restoring them to slavery. The truth relating to this part of the subject, habitually falsified or concealed by Bonaparte and his admirers,<sup>2</sup> remained hidden among the manuscript records of the Empire; but the order to restore slavery at Guadeloupe was given, June 14, by the Minister of the Marine to General Richepanse, who commanded there, and on the same day a similar instruction was sent to General Leclerc at St. Domingo, in each case leaving the general to act according to his discretion in the time and manner of proceeding.

“As regards the return of the blacks to the old *régime*,” wrote the Minister to General Leclerc,<sup>3</sup> “the bloody struggle out of which you have just come victorious with glory commands us to use the utmost caution. Perhaps we should only entangle ourselves in it anew if we wished precipitately to break that idol of liberty in whose name so much blood has flowed till now. For some time yet vigilance, order, a discipline at once rural and military, must take the place of the positive and pro-

<sup>1</sup> Moniteur, 24 Prairial, An x. (June 13, 1802).

<sup>2</sup> Correspondance, xxx. 535; Notes sur St. Domingue.

<sup>3</sup> Decrès to Leclerc, 25 Prairial, An x. (June 14, 1802); Archives de la Marine, MSS. Cf. Revue Historique, “Napoléon Premier et Saint Domingue,” Janvier-Février, 1884.

nounced slavery of the colored people of your colony. Especially the master's good usage must reattach them to his rule. When they shall have felt by comparison the difference between a usurping and tyrannical yoke and that of the legitimate proprietor interested in their preservation, then the moment will have arrived for making them return to their original condition, from which it has been so disastrous to have drawn them."

## CHAPTER XVI.

SIMULTANEOUSLY with the order to restore slavery at Guadeloupe and St. Domingo, Bonaparte directed his Minister of Marine to prepare plans and estimates for the expedition which was to occupy Louisiana. "My intention is to take possession of Louisiana with the shortest delay, and that this expedition be made in the utmost secrecy, under the appearance of being directed on St. Domingo."<sup>1</sup> The First Consul had allowed Godoy to postpone for a year the delivery of Louisiana, but he would wait no longer. His Minister at Madrid, General Gouvion St.-Cyr, obtained at length a promise that the order for the delivery of Louisiana should be given by Charles IV. to the First Consul on two conditions: first, that Austria, England, and the dethroned Grand Duke of Tuscany should be made to recognize the new King of Etruria; second, that France should pledge herself "not to alienate the property and usufruct of Louisiana, and to restore it to Spain in case the King of Tuscany should lose the whole or the greater part of his estates."

<sup>1</sup> Correspondance, vii. 485; Bonaparte to Decrès, 15 Prairial, An x. (June 4, 1802). —

To these demands Talleyrand immediately replied in a letter of instructions to Gouvion St.-Cyr, which was destined to a painful celebrity.<sup>1</sup> After soothing and reassuring Spain on the subject of the King of Etruria, this letter came at last to the required pledge in regard to Louisiana: —

“Spain wishes that France should engage herself not to sell or alienate in any manner the property or enjoyment of Louisiana. Her wish in this respect perfectly conforms with the intentions of the French government, which parted with it in 1762 only in favor of Spain, and has wished to recover it only because France holds to a possession which once made part of French territory. You can declare in the name of the First Consul that France will never alienate it.”

St.-Cyr accordingly gave a formal written pledge in the name of the First Consul that France would never alienate Louisiana.<sup>2</sup>

Even yet the formal act of delivery was delayed. Bonaparte gave orders<sup>3</sup> that the expedition should be ready to sail in the last week of September; but the time passed, and delays were multiplied. For once the First Consul failed to act with energy. His resources were drained to St. Domingo as fast as

<sup>1</sup> Talleyrand to Gouvion St.-Cyr, 30 Prairial, An x. (June 19, 1802); Archives des Aff. Étr., MSS.

<sup>2</sup> St.-Cyr to Don Pedro Cevallos, 23 Messidor, An x. (July 12, 1802). Yrujo to Madison, Sept. 4, 1803. State Papers, ii. 569.

<sup>3</sup> Correspondance, viii. 5; Bonaparte to Decrès, 6 Fructidor, An x. (Aug. 24, 1802).

he could collect them,<sup>1</sup> and the demands of the colonies on his means of transportation exceeded his supply of transports. The expedition to Louisiana was postponed, but, as he hoped, only to give it more scope.

From the time of Berthier's treaty of retrocession, Bonaparte had tried to induce the King of Spain to part with the Floridas; but Charles IV. refused to talk of another bargain. In vain Bonaparte wrote to the young King of Etruria, offering to give him Parma, Piacenza, and Guastalla, if Don Carlos would add Florida to Louisiana.<sup>2</sup> When at length the King signed at Barcelona, October 15, the order which delivered Louisiana to France, Bonaparte pressed more earnestly than ever for the Floridas. Talleyrand made a report on the subject, dissuading him from acquiring more than West Florida.<sup>3</sup>

"West Florida," he wrote, "suffices for the desired enlargement of Louisiana; it completes the retrocession of the French colony, such as it was given to Spain; it carries the eastern boundary back to the river Appalachicola; it gives us the port of Pensacola, and a population which forms more than half that of the two Floridas. By leaving East Florida to Spain we much diminish the difficulties of our relative position in regard to the United

<sup>1</sup> Correspondance, viii. 112; Bonaparte to Leclerc, 6 Frimaire, An xi. (Nov. 27, 1802).

<sup>2</sup> Ibid., 12; Bonaparte to the King of Tuscany, 11 Fructidor, An x. (Aug. 29, 1802).

<sup>3</sup> Rapport au Premier Consul; Frimaire, An xi. (November, 1802); Archives des Aff. Étr., MSS.



States, — difficulties little felt to-day, but which some day may become of the gravest importance.”

Bonaparte did not follow this advice. On the death of the Duke of Parma he wrote with his own hand to the King of Spain, offering the old family estate of Parma as a gift for the King of Tuscany, in return for which France was to receive the Floridas.<sup>1</sup> The Queen, as before, favored the exchange, and all her influence was exerted to effect it; but Godoy was obstinate in evading or declining the offer, and after months of diplomatic effort Bonaparte received at last, toward the end of January, 1803, a despatch from General Beurnonville, his new representative at Madrid, announcing that the Prince of Peace, with the aid of the British Minister John Hookham Frere, had succeeded in defeating the scheme.<sup>2</sup>

“The Prince told me that the British Minister had declared to him, in the name of his Government, that his Britannic Majesty, being informed of the projects of exchange which existed between France and Spain, could never consent that the two Floridas should become an acquisition of the Republic; that the United States of America were in this respect of one mind with the Court of London; and that Russia equally objected to France disposing of the estates of Parma in favor of Spain, since the Emperor Alexander intended to have them granted as

<sup>1</sup> Correspondance, viii. 111; Bonaparte to the King of Spain, 6 Frimaire, An xi. (Nov. 27. 1802).

<sup>2</sup> Beurnonville to Talleyrand, 27 Nivôse, An xi. (Jan. 17, 1803); Archives des Aff. Étr., MSS.

indemnity to the King of Sardinia. In imparting to me this proceeding of the British Minister, the Prince had a satisfied air, which showed how much he wished that the exchange, almost agreed upon and so warmly desired by the Queen, may not take place."

Europe would have acted more wisely in its own interest by offering Bonaparte every inducement to waste his strength on America. Had England, Spain, and Russia united to give him Florida on his own terms, they would have done only what was best for themselves. A slight impulse given to the First Consul would have plunged him into difficulties with the United States from which neither France nor the United States could have easily escaped. Both Godoy and the Emperor Alexander would have done well to let French blood flow without restraint in St. Domingo and on the Mississippi, rather than drown with it the plains of Castile and Smolensk.

Although the retrocession of Louisiana to France had been settled in principle by Berthier's treaty of Oct. 1, 1800, six months before Jefferson came into office, the secret was so well kept that Jefferson hardly suspected it. He began his administration by anticipating a long period of intimate relations with Spain and France. In sending instructions to Claiborne as governor of the Mississippi Territory,—a post of importance, because of its relations with the Spanish authority at New Orleans,—President Jefferson wrote privately,<sup>1</sup>—

<sup>1</sup> Jefferson to W. C. C. Claiborne, July 13, 1801; Jefferson MSS.

“With respect to Spain, our disposition is sincerely amicable, and even affectionate. We consider her possession of the adjacent country as most favorable to our interests, and should see with an extreme pain any other nation substituted for them.”

Disposed to be affectionate toward Spain, he assumed that he should stand in cordial relations with Spain's ally, the First Consul. Convinced that the quarrels of America with France had been artificially created by the monarchical Federalists, he believed that a policy of open confidence would prevent such dangers in the future. The First Consul would naturally cultivate his friendship, for every Federalist newspaper had for years proclaimed Jefferson as the head of French influence in America, and every Republican newspaper had branded his predecessors as tools of Great Britain. In spite of the 18th Brumaire, Jefferson had not entirely lost faith in Bonaparte, and knew almost nothing of his character or schemes. At the moment when national interest depended on prompt and exact information, the President withdrew half his ministers from Europe, and paid little attention to the agents he retained. He took diplomatic matters into his own hands, and meant to conduct them at Washington with diplomatists under his personal influence,—a practice well suited to a power superior in will and force to that with which it dealt, but one which might work badly in dealing with Bonaparte. When Chancellor Livingston, the new minister to Paris, sailed for France, Jefferson wrote him a private

letter<sup>1</sup> in regard to the appointment of a new French minister at Washington. Two names had been suggested, — La Forest and Otto. Neither of these was quite satisfactory; some man would be preferred whose sympathies should be so entire as to make reticences and restraints unnecessary. The idea that Jefferson could put himself in Bonaparte's hands without reticence or restraint belonged to old theories of opposition, — a few months dispelled it; and when he had been a year in office, he wrote again to Livingston, withdrawing the objection to La Forest and Otto. "When I wrote that letter," said he,<sup>2</sup> "I did not harbor a doubt that the disposition on that side the water was as cordial as I knew ours to be." He had discovered his mistake, — "the dispositions now understood to exist there impose of themselves limits to the openness of our communications."

Even before Livingston sailed, the rumors of the retrocession of Louisiana had taken such definite shape<sup>3</sup> that, in June, 1801, Secretary Madison instructed the ministers at London, Paris, and Madrid on the subject. These instructions were remarkable for their mildness.<sup>4</sup> No protest was officially ordered against a scheme so hostile to the interests of the Union. On the contrary, Livingston was told, in Sep-

<sup>1</sup> Jefferson to R. R. Livingston, Aug. 28, 1801; Jefferson's Writings (Ford), viii. 85.

<sup>2</sup> Ibid., viii. 138.

<sup>3</sup> Rufus King to Madison, June 1, 1801; State Papers, ii. 509.

<sup>4</sup> Madison to Pinckney, June 9, 1801; Madison to Livingston, Sept. 28, 1801; State Papers, ii. 510.

tember, 1801, that if he could obtain West Florida from France, or by means of French influence, "such a proof on the part of France of good-will toward the United States would contribute to reconcile the latter" to seeing Bonaparte at New Orleans. Even after Rufus King, the United States minister at London, sent home a copy of Lucien Bonaparte's treaty of Madrid, in which the whole story was told,<sup>1</sup> this revelation, probably managed by Godoy in order to put the United States and England on their guard, produced no immediate effect. Jefferson yielded with reluctance to the conviction that he must quarrel with Bonaparte. Had not Godoy's delays and Toussaint's resistance intervened, ten thousand French soldiers, trained in the school of Hoche and Moreau, and commanded by a future marshal of France, might have occupied New Orleans and St. Louis before Jefferson could have collected a brigade of militia at Nashville.

By the spring of 1802 Jefferson became alive to the danger. He then saw what was meant by the French expedition against Toussaint. Leclerc had scarcely succeeded, Feb. 5, 1802, in taking possession of the little that Christophe left at Cap Français, when his difficulties of supply began. St. Domingo drew its supplies chiefly from the United States. Toussaint's dependence on the American continent had been so complete as to form one of the chief complaints of French merchants. General Leclerc disliked the

<sup>1</sup> Rufus King to Madison, Nov. 20, 1801; State Papers, ii. 511.

United States,—not without reason, since the Government of that country, as was notorious, had done its utmost to punish France, and had succeeded beyond expectation. Leclerc was a soldier,—severe, impatient, quick to take offence, and also quick to forget it. He knew that he could expect no sympathy from Americans, and he found that all the supplies in St. Domingo were American property. Of course the owners asked extortionate prices; and had Leclerc paid them, he would within six weeks have seen his harbors glutted with goods from Baltimore and New York. Instead of doing this, he seized them, and insulted the American shipmasters and merchants. By the month of March the newspapers of the United States were filled with stories of Leclerc's arbitrary and violent conduct. He was reported as saying that the Americans were no better than Arabs; and one of his general officers was said to have told Lear, the American consul-general, that they were the scum of nations. Cargoes were taken without payment, American shipmasters were seized and imprisoned for offences unknown to the law; while Lear was notified that no consul could be received in St. Domingo as a colony of France, and that he must quit the island within a fortnight. No protest availed against such summary discipline. Lear obeyed; and returning to Madison at Washington, told him of American property confiscated and American citizens in prison.

Madison sent for Pichon, then in charge of the



French legation at Washington pending the appointment of a minister. Pichon was a relic of the French republic; he had been long in the United States, and felt little apparent sympathy with the consular *régime* or its plans. At Madison's request, Pichon undertook to interfere, and wrote to Leclerc letter upon letter of remonstrance.<sup>1</sup> America, he said, could either feed or famish the French army: "Experience proves it; our colonies were brought into revolt only by our unlucky misunderstanding with her; through her alone can we raise them up again." Leclerc resented the tone of these letters, and wrote to Bonaparte that Pichon was a scoundrel and a wretch, with whom he would hold no further relations;<sup>2</sup> but before Leclerc's letter could have arrived, the First Consul had already ordered<sup>3</sup> Talleyrand to rebuke the *chargé* at Washington for his American officiousness. Pichon's diplomatic career was closed; he retired into private life as soon as the new minister arrived, but meanwhile his remonstrances were not without effect upon Leclerc, whose anger rarely became vindictive.

The conduct of Leclerc in expelling Lear and imprisoning American shipmasters because munitions of

<sup>1</sup> Pichon to Leclerc, 29 Ventôse-11 Messidor, An x. (March 20-June 30, 1802); Archives de la Marine, MSS.

<sup>2</sup> Leclerc to Bonaparte, 17 Prairial, An x. (June 6, 1802); Archives Nationales, MSS.

<sup>3</sup> Correspondance, vii. 508; Bonaparte to Talleyrand, 15 Messidor, An x. (July 4, 1802).

war were found among the cargoes lying in the ports of Toussaint, first opened President Jefferson's eyes to the situation into which he was drifting; but other evidences were not wanting that Bonaparte was no friend of the United States. Talleyrand's conduct was almost as exasperating as when he provoked reprisals four years before. Chancellor Livingston reached France about Nov. 10, 1801, just in time to see Leclerc's expedition sail. He was met by private assurances that Louisiana and the Floridas had been bought by France, and he went to Talleyrand with inquiries.<sup>1</sup> The imperturbable Talleyrand looked him in the face and denied the fact. "It had been a subject of conversation," he said, "but nothing concluded." At that moment Rufus King was sending from London the text of Lucien Bonaparte's treaty, dated eight months before, which fixed the details of the retrocession. President Jefferson received at the same instant Talleyrand's explicit denial and the explicit proof that Talleyrand was trying to deceive him. Jefferson soon satisfied himself that Talleyrand's conduct rested on a system; and he became angrier with every act of the French foreign minister. Livingston, naturally somewhat suspicious and fretful, soon became restive under the treatment he received; for his notes and remonstrances were left equally without answer or attention, whether they related to Louisiana or to the debts due by the Govern-

<sup>1</sup> Livingston to Madison, Dec. 10, 1801; Livingston to King, Dec. 30; King to Madison, Nov. 20; State Papers, ii. 511, 512.

ment of France to American citizens. As Livingston grew hot, and Leclerc's temper burst into violence, Madison became irritable, and by the month of May had reached the point of saying that if such conduct should continue, "the worst events are to be apprehended."<sup>1</sup>

The President himself then intervened. A French gentleman, Dupont de Nemours, happened to be in the United States on the point of returning to France. Dupont's name was then as well and honorably known in France as that of his descendants was to become in the annals of the United States. To him Jefferson turned as a medium of unofficial communication with the First Consul. He enclosed to Dupont a letter addressed to Livingston on the Louisiana affair, which he requested Dupont to read, and, after reading, to seal.

"I wish you to be possessed of the subject," he wrote,<sup>2</sup> "because you may be able to impress on the Government of France the inevitable consequences of their taking possession of Louisiana; and though, as I here mention, the cession of New Orleans and the Floridas to us would be a palliation, yet I believe it would be no more, and that this measure will cost France, and perhaps not very long hence, a war which will annihilate her on the ocean, and place that element under the despotism of two nations, — which I am not reconciled to the more because my own would be one of them."

<sup>1</sup> Madison to Livingston, May 1, 1802; State Papers, ii. 516.

<sup>2</sup> Jefferson to Dupont de Nemours, April 25, 1802; Works, iv. 435.

This idea was still more strongly expressed in the enclosure to Livingston, which Dupont was to read, in order that he might communicate its sense to Bonaparte:<sup>1</sup>—

“The day that France takes possession of New Orleans fixes the sentence which is to restrain her forever within her low-water mark. It seals the union of two nations, who in conjunction can maintain exclusive possession of the ocean. From that moment we must marry ourselves to the British fleet and nation. . . . Will not the amalgamation of a young and thriving nation continue to that enemy the health and force which are at present so evidently on the decline? And will a few years’ possession of New Orleans add equally to the strength of France?”

Dupont was to impress on the First Consul the idea that if he should occupy Louisiana, the United States would wait “a few years,” until the next war between France and England, but would then make common cause with England. Even a present cession of New Orleans and the Floridas to the United States, though it would remove the necessity of an immediate advance to England, would not prevent the risk of a quarrel with France, so long as France should hold the west bank of the Mississippi. To obviate such a quarrel was the object of Dupont’s unofficial mission. “If you can be the means of informing the wisdom of Bonaparte of all its consequences, you have deserved well of both countries.”

<sup>1</sup> Jefferson to Livingston, April 18, 1802; Works, iv. 431.

As though to alarm Bonaparte were not task enough for any one man, Jefferson suggested that it would be well to hoodwink Talleyrand.

“There is another service you can render. I am told that Talleyrand is personally hostile to us. This, I suppose, has been occasioned by the X. Y. Z. history; but he should consider that that was the artifice of a party willing to sacrifice him to the consolidation of their power. This nation has done him justice by dismissing them.”

To do Talleyrand justice was impossible; but his reflections on the letter which Dupont was tacitly authorized to show him could hardly have been just to Jefferson. With the X. Y. Z. history, as Jefferson called it, fresh in Talleyrand's mind,—an instance of his venality so notorious that it had cost him his office, and so outrageous that even his associates of the 18th Brumaire had not at first ventured to reappoint him,—hostility to the United States had become with him a personal as well as a political passion. Accustomed to the penetrating candor of his own untroubled avowals, he read these words of Jefferson, announcing that an American President had been dismissed from office in order to do him justice:—

“This nation has done him justice by dismissing them; those in power are precisely those who disbelieved that story, and saw in it nothing but an attempt to deceive our country. We entertain toward him personally the

most friendly dispositions. As to the government of France, we know too little of the state of things there to understand what it is, and have no inclination to meddle in their settlement. Whatever government they establish, we wish to be well with it."

Talleyrand must have known enough of the American character to feel that a Republican President could not seriously mean to represent his own election as an act of national justice to a venal French politician; in his eyes, the letter could have seemed to show only simple-mindedness. One point needed no analysis of character. Jefferson said that he did not know what sort of government the 18th Brumaire created, or care to meddle in its affairs; he wished to be well with it, and in any case should not go to war until England did so. Dupont remonstrated against the nature of the message. "A young soldier," he wrote back,<sup>1</sup> "whose ministers can keep their places only by perpetually flattering his military pride, will be much more offended than touched by this reasoning; and if this be all that is advanced, we may regard the negotiation as a failure." To make its chances worse, it crossed the ocean at the same time with the news that Toussaint had submitted, and that no obstacle to the immediate occupation of Louisiana remained. Dupont talked in vain. Bonaparte answered only by pressing Spain for the Floridas, and demanding possession of New Orleans.

<sup>1</sup> Dupont to Jefferson, April 30, 1802; Jefferson MSS.



Thus far American diplomacy was not successful; Jefferson's efforts were no more effective than Madison's more cautious suggestions. As the summer began, the President watched anxiously the course of events at St. Domingo, and found consolation there for the baseness of Callender and the assaults on Paine at home. "Though I take for granted," he wrote to Governor McKean,<sup>1</sup> "that the colonization of Louisiana is a settled point, yet I suspect they must be much stronger in St. Domingo before they can spare troops to go there. What has been called a surrender of Toussaint to Leclerc, I suspect was in reality a surrender of Leclerc to Toussaint."

The seizure of Toussaint and his disappearance from the island, which occurred as Jefferson wrote this letter, overthrew its hopeful theories; but before long, reports began to arrive in the United States that Leclerc had met with a new disaster, so terrible as to surpass the horrors even of St. Domingo history. The first French army, of seventeen thousand men, had been consumed in the task of subjecting the negroes. A second army was next swept away by yellow fever. In the middle of September, 1802, Leclerc wrote to the First Consul that of twenty-eight thousand three hundred men sent to St. Domingo, four thousand remained fit for service.<sup>2</sup> "Add to

<sup>1</sup> Jefferson to Governor McKean, June 14, 1802; Jefferson MSS.

<sup>2</sup> Leclerc to Bonaparte, 29 Fructidor, An x. (Sept. 16, 1802); Archives Nationales, MSS.

our losses that of five thousand sailors, and the occupation of St. Domingo has cost us till now twenty-four thousand men, and we are not yet definitely masters of it." He was depending on Toussaint's generals and army for his support against an insurrection of the laborers, who were maddened by the rumor that slavery had been restored at Guadeloupe, and was soon to be re-established at St. Domingo. Nothing could be more discouraging than Leclerc's letters :<sup>1</sup> —

"I have no false measure to reproach myself with, Citizen Consul ; and if my position, from being a very good one, has become very bad, it is necessary to blame here only the malady which has destroyed my army, the premature re-establishment of slavery at Guadeloupe, and the newspapers and letters from France, which speak only of slavery. Here is my opinion on this country. We must destroy all the negroes in the mountains, men and women, keeping only infants less than twelve years old ; we must also destroy half those of the plain, and leave in the colony not a single man of color who has worn an epaulette. Without this the colony will never be quiet ; and at the beginning of every year, especially after murderous seasons like this, you will have a civil war, which will shake your hold on the country. In order to be master of St. Domingo, you must send me twelve thousand men without losing a single day."

Besides these twelve thousand men and twelve hundred thousand dollars in specie, Leclerc required

<sup>1</sup> Leclerc to Bonaparte, 15 Vendémiaire, An xi. (Oct. 7, 1802); Archives Nationales, MSS.

five thousand more men in the following summer. "If you cannot send the troops I demand, and for the season I point out, St. Domingo will be forever lost to France."

Long afterward, at St. Helena, Napoleon wrote comments<sup>1</sup> on the causes of his disaster at St. Domingo, severely blaming his brother-in-law Leclerc for failing to carry out his orders to arrest and send to Europe all the black generals, as he sent Toussaint. Napoleon's rule in politics, and one which cost him dear, was to disregard masses and reckon only on leaders. Toussaint came within a step of achieving the greatest triumph of his age. Had he been true to himself and his color, and had he hidden himself for a few months in the mountains, he need not have struck a blow in order to drive Bonaparte's generals back to Europe; the yellow fever and the blind despair of the negro laborers would have done the work alone. Bonaparte's theory in regard to the negro chiefs was an illusion. Christophe, Dessalines, Maurepas, and all Toussaint's chief officers served Leclerc faithfully till they saw his case to be hopeless. "Dessalines is at this moment the butcher of the blacks," wrote Leclerc Sept. 16, 1802, in the midst of insurrections; "Christophe has so maltreated them as to be execrated by them." The negro chiefs were traitors to both sides; and if not arrested by Leclerc, they deserved to be shot by their own people. While they helped to exterminate the

<sup>1</sup> Correspondance, xxx. 534.

black laboring class, Leclerc sent home reports that might have frozen the blood of any man less callous than Bonaparte :<sup>1</sup> —

“ The decrees of General Richepanse [at Guadeloupe] circulate here, and do much harm. The one which restores slavery, in consequence of being published three months too soon, will cost many men to the army and colony of St. Domingo. . . . I get news of a bloody combat sustained by General Boyer at the Gros Morne. The rebels were exterminated ; fifty prisoners were hung. These men die with incredible fanaticism, — they laugh at death ; it is the same with the women. The rebels of Moustique have attacked and carried Jean Rabel ; it should have been retaken by this time. This fury is the work of General Richepanse’s proclamation and of the inconsiderate talk of the colonists.”

As the insurrection spread, and the fever reduced Leclerc’s European force, the black generals and troops began to desert. Shooting was useless ; drowning had no effect. No form of terror touched them. “ Few colonial troops remain with me,” wrote Leclerc in almost his last letter. “ A battalion of the Eleventh Colonial, which had been joined with the Legion of the Cape, having furnished a number of deserters, 176 men of this battalion were embarked at Jacmel for Port Republican. Of this number 173 strangled themselves on the way, the Chef de Bataillon at their head. There you see the men we have

<sup>1</sup> Leclerc to Decrès, 21 Thermidor, An x. (Aug. 9, 1802); Archives de la Marine, MSS.

to fight!"<sup>1</sup> At length the report came that Leclerc himself had succumbed. Worn by anxieties, exertions, and incessant fever, he followed his army to the grave.

News of Leclerc's death, Nov. 1, 1802, and of the hopelessness of Bonaparte's schemes against St. Domingo, reached the Government at Washington nearly at the same time with other news which overshadowed this. The people of the United States expected day by day to hear of some sudden attack, from which as yet only the dexterity of Godoy and the disasters of Leclerc had saved them. Although they could see only indistinctly the meaning of what had taken place, they knew where to look for the coming stroke, and in such a state of mind might easily exaggerate its importance. A few days before Congress met, the Western post brought a despatch from Governor Claiborne at Natchez announcing that the Spanish Intendant, Don Juan Ventura Morales, had forbidden the Americans to deposit their merchandise at New Orleans, as they had a right to do under the treaty of 1795.<sup>2</sup>

No one doubted that although the attack might come from a Spanish Intendant, the real party with whom America had to deal was not Spain, but France. The secret papers of the French government show

<sup>1</sup> Leclerc to Bonaparte, 15 Vendémiaire, An xi. (Oct. 7, 1802); Archives Nationales, MSS.

<sup>2</sup> Despatch of W. C. C. Claiborne, Oct. 29, 1802; State Papers, ii. 470.

what was said, but hardly believed at the time, that the First Consul was not directly responsible for the act; but they also prove that the act was a consequence of the retrocession. The colonial system of Spain was clumsy and disconnected. Viceroy, governors, commandants, intendants, acted in Mexico, Cuba, New Orleans, Peru, everywhere without relation to each other. At New Orleans the Governor, Don Juan de Salcedo, was powerless to control the Intendant, Don Juan Ventura Morales, and no authority nearer than Madrid could decide between them. The *entrepôt*, or right of deposit, not only prevented the Spanish Intendant from imposing duties on American produce, but also covered a large amount of smuggling which further diminished the revenue. The Intendant, who had charge of the revenues, and was partly responsible for the large deficit which every year drained the resources of Spain to Louisiana, was forced to hear the complaints of the Treasury at Madrid, continually asking him to find a remedy, and at last, in one of its despatches, letting slip the remark that "after all, the right of deposit was only for three years." The treaty of 1795 had in fact stipulated that the King of Spain would "permit the citizens of the United States, for the space of three years from this time, to deposit their merchandise and effects in the port of New Orleans, and to export them from thence, without paying any other duty than a fair price for the hire of the stores; and his Majesty promises either to continue this permis-



sion if he finds during that time that it is not prejudicial to the interests of Spain, or if he should not agree to continue it there, he will assign to them on another part of the banks of the Mississippi an equivalent establishment."

According to the explanation given by Morales to Laussat,<sup>1</sup> the new French prefect whom Bonaparte sent to receive possession of Louisiana, the Spaniard acted on his own responsibility, in what he believed to be the interests of the colony, and within the stipulations of the treaty. Thinking that the retrocession offered a chance, which might never recur, for reopening a question which had been wrongly decided, Morales, defying the opposition and even the threats of Governor Salcedo, proclaimed the right of deposit to be at an end. He reasoned that Spain as a result of peace with England had shut her colonial ports to strangers, and this measure, so far as it included Louisiana, was illusory so long as the right of deposit should exist. The right had been granted for three years from 1795; and if the practice had been permitted to continue after these three years expired, it might have been owing, not to the treaty, but to the general privileges granted to neutrals during the war; and as for the Americans, it was their own fault not to have looked more carefully to their rights at the close of the three years, when they should have secured the continuation or the prom-

<sup>1</sup> Laussat to Decrès, 29 Germinal, An xi. (April 19, 1803); Archives de la Marine, MSS.

ised substitute. As Spain was about to lose Louisiana in any case, Morales remarked that she need not trouble herself about the quarrel he was making with the United States; while the French republic took Louisiana as it actually stood under the treaties, and ought therefore to be glad of whatever improved the actual situation, or opened the path to negotiations more advantageous. This view of the matter, as Morales presented it, was the more interesting because it was in the spirit of Talleyrand's plans, and reversed Godoy's policy.

The rumor that Spain had closed the Mississippi roused varied sensations as it spread eastward. Tennessee and Kentucky became eager for war. They knew that Morales's act was a foretaste of what they were to expect from France; and they might well ask themselves how many lives it would cost to dislodge a French army once fortified on the lower Mississippi. The whole power of the United States could not at that day, even if backed by the navy of England, have driven ten thousand French troops out of Louisiana. On the contrary, a vigorous French officer, with a small trained force and his Indian allies, could make Claiborne uneasy for the safety of his villages at Natchez and Vicksburg. No one could foresee what might be the effect of one or two disastrous campaigns on the devotion of the Western people to the Government at Washington. The existence of the Union and the sacrifice of many thousand lives seemed, in the opinion of competent judges, likely to

be risked by allowing Bonaparte to make his position at New Orleans impregnable.

The New England Federalists were satisfied that President Jefferson must either adopt their own policy and make war on France, or risk a dissolution of the Union. They had hardly dared hope that democracy would so soon meet what might prove to be its crisis. They too cried for war, and cared little whether their outcry produced or prevented hostilities, for the horns of Jefferson's dilemma were equally fatal to him. All eyes were bent on the President, and watched eagerly for some sign of his intentions.

## CHAPTER XVII.

AFTER the letters sent to Europe by Dupont de Nemours in May, neither the President nor the Secretary of State again stirred before the meeting of Congress in December. The diplomacy of 1800 was slow. Nearly six months were required to decide upon a policy, write to Europe, receive a reply, and decide again upon an answer. An entire year was needed for taking a new line of action, and ascertaining its chances of success. In October, Madison wrote to Livingston that the President still waited to learn the impression produced at Paris by Dupont.<sup>1</sup> Livingston, on his side, had been active and unsuccessful. The President again wrote to him, by the October packet, a letter which would have perplexed any European diplomatist.<sup>2</sup>

“ We shall so take our distance between the two rival nations,” said Jefferson, “ as, remaining disengaged till necessity compels us, we may haul finally to the enemy of that which shall make it necessary. We see all the disadvantageous consequences of taking a side, and shall be forced into it only by a more disagreeable alternative ;

<sup>1</sup> Madison to Livingston, Oct. 15, 1802; State Papers, ii. 525.

<sup>2</sup> Jefferson to Livingston, Oct. 10, 1802; Works, iv. 447.

in which event we must countervail the disadvantages by measures which will give us splendor and power, but not as much happiness as our present system. We wish, therefore, to remain well with France; but we see that no consequences, however ruinous to them, can secure us with certainty against the extravagance of her present rulers. . . . No matter at present existing between them and us is important enough to risk a breach of peace, — peace being indeed the most important of all things for us, except the preserving an erect and independent attitude.”

“Peace is our passion!” This phrase of President Jefferson, taken from a letter written a few months later,<sup>1</sup> expressed his true policy. In spite of his frequent menaces, he told Livingston in October, 1802, that the French occupation of Louisiana was not “important enough to risk a breach of peace.” Within a week after this letter was written, New Orleans was closed to American commerce, and a breach of peace seemed unavoidable. Down to that time the Executive had done nothing to check Napoleon. The President had instructed his agents at Paris and Madrid to obtain, if they could, the cession of New Orleans and West Florida, and had threatened an alliance with England in case this request were refused; but England was at peace with France, and Bonaparte was not likely to provoke another war until he should be able to defend Louisiana. So far as any diplomatic action by the United States government was

<sup>1</sup> Jefferson to Sir John Sinclair, June 30, 1803; Works, iv. 490.

concerned, Madison and Jefferson might equally well have written nothing; and when news arrived that the Mississippi was closed, alarming as the situation became, no new action was at first suggested. The President was contented to accept the assistance of the Spanish and French representatives at Washington.

In Jefferson's domestic as well as in his political household Don Carlos Martinez de Yrujo, — created in 1802 Marquis of Casa Yrujo, — the minister of Spain, was thoroughly at home, for he had a double title to confidence, and even to affection. His first claim was due to his marriage with a daughter of Governor McKean of Pennsylvania, whose importance in the Republican party was great. His second claim was political. Some years earlier he had so exasperated Timothy Pickering, then Secretary of State, as to provoke a demand for his recall. One of President Jefferson's first diplomatic acts was to ask from the Spanish government that Yrujo should be allowed to remain at Washington; and Godoy, who knew even better than Jefferson the character and merits of Yrujo, readily granted the favor.

Thus Yrujo was doubly and trebly attached to the Administration. Proud as a typical Spaniard should be, and mingling an infusion of vanity with his pride; irascible, headstrong, indiscreet as was possible for a diplomatist, and afraid of no prince or president; young, able, quick, and aggressive; devoted to his King and country; a flighty and dangerous friend,



but a most troublesome enemy ; always in difficulties, but in spite of fantastic outbursts always respectable,—Yrujo needed only the contrast of characters such as those of Pickering or Madison to make him the most entertaining figure in Washington politics. He had become an American in language, family, and political training. He loved the rough-and-tumble of democratic habits, and remembered his diplomatic dignity only when he could use it as a weapon against a secretary of state. If he thought the Government to need assistance or warning, he wrote communications to the newspapers in a style which long experience had made familiar to the public and irritating to the Government whose acts he criticised. For natural reasons the American Executive, which never hesitated to use the press without limit for its own purposes, held it indecorous that a foreign minister should attempt to affect public opinion. The example of Genet was regarded as a proof even more than a warning that such action was highly improper ; but from Yrujo's point of view, as from Genet's, the question of decorum was ridiculous in a country which prided itself on the absence of etiquette, and the only question he cared to consider was whether the press answered his purpose. His success could be best measured by the exasperation it caused to the tempers of Pickering and Madison.

Yrujo felt no love for Bonaparte, and no wish to serve his ends. At this moment of anxiety, stepping forward to assist the President, he asserted that there

was no cause for alarm;<sup>1</sup> that the act of Morales was not authorized by the King of Spain, but rose from some excess of zeal or mistaken interpretation of the treaty on the part of the Intendant; and that a packet-boat should be instantly sent to New Orleans to inquire the reasons of the measure. His letter to the Intendant was in reality extremely sharp,—“a veritable diatribe,” according to Laussat, the new French prefect, to whom Morales showed it. Yrujo pointed out the fatal consequences of Morales’s conduct, and the ground it gave to United States citizens for claiming indemnity for their commercial losses.<sup>2</sup> At the same time Madison instructed Charles Pinckney at Madrid to inform the Spanish government that the President expected it to lose not a moment in countermanding the order of Morales, and in repairing every damage that might result from it.<sup>3</sup>

There the matter rested until December 6, when Congress met. Even at so exciting a moment, senators were slow in arriving at Washington, and a week passed before a quorum was formed. Not till December 15 could the Annual Message be read. No message could be more pacific in tone. The President discussed everything except the danger which engrossed men’s minds. He talked of peace and friendship,

<sup>1</sup> Yrujo to Madison, Nov. 27, 1802; MSS. State Department Archives.

<sup>2</sup> Yrujo to Morales, Nov. 26, 1802; Gayarré, *History of Louisiana*, iii. 576.

<sup>3</sup> Madison to Pinckney, Nov. 27, 1802; *State Papers*, ii. 527.

of law, order, and religion, of differential duties, distressed seamen, the blockade of Tripoli, Georgia lands, Indian treaties, the increase in revenue, "the emancipation of our posterity from that mortal canker" a national debt, "by avoiding false objects of expense;" he said that no change in the military establishment was deemed necessary, but that the militia might be improved; he regretted that the behavior of the Barbary Powers rendered a small squadron still necessary to patrol the Mediterranean, but at the same time he strongly urged Congress to take measures for laying up the whole navy, by constructing a large dry-dock on the Eastern Branch, where the seven frigates might be stowed away side by side under cover, and kept from decay or expense. All these subjects he touched in a spirit of peace and good-will toward mankind; but when he came to the question of Louisiana, about which he had written so many alarming letters to Europe, he spoke in a tone of apparent indifference. "The cession of the Spanish province of Louisiana to France," he said, "which took place in the course of the late war, will, if carried into effect, make a change in the aspect of our foreign relations which will doubtless have a just weight in any deliberations of the Legislature connected with that subject." No allusion was made to the closure of the Mississippi.

Nothing could more disconcert the war party than this manner of ignoring their existence. Jefferson afterward explained that his hope was to gain time;

but he could not more effectually have belittled his Federalist enemies than by thus telling them that a French army at New Orleans would "make a change in the aspect of our foreign relations." This manner of treating Congress was the more dexterous, because if the President did not at once invite the Legislature to realize the alarming state of foreign affairs, he abstained only in order to carry out other tactics. Two days after the Message was read, December 17, John Randolph, the Administration leader in the House, moved for the papers relating to the violated right of deposit. Great curiosity was felt to know what course the President meant to take.

"However timid Mr. Jefferson may be," wrote Pichon to Talleyrand,<sup>1</sup> "and whatever price he may put on his pacific policy, one cannot foresee precisely what his answer will be. . . . I find in general a bad temper as regards us; and I cannot help seeing that there is a tendency toward adopting an irrevocably hostile system. This circumstance will be decisive for Mr. Jefferson. If he acts feebly, he is lost among his partisans; it will be then the time for Mr. Burr to show himself with advantage."

Thornton watched with equal anxiety the movement which promised to throw the United States into the arms of England. He expected as little as Pichon that the President would act with energy, but

<sup>1</sup> Pichon to Talleyrand, 2 Nivôse, An xi. (Dec. 22, 1802); Archives des Aff. Étr., MSS.

he hoped that the situation would force him into taking a side.<sup>1</sup>

“From the language of his ministers, and from the insinuations of some members of the Federal party, it will not be, I doubt, such a measure of vigor as would place the country on a commanding ground in the negotiation with Spain, or eventually with France; and the latter persons have some of them designated it to me as likely to be a very foolish thing.”

Five days passed before Jefferson answered the call of the House; and when he did so, he sent papers which might have been prepared in five minutes, for most of them had been long printed in the newspapers.<sup>2</sup> In communicating these documents, the President added that he had not lost a moment in causing every step to be taken which the occasion claimed from him; but he did not say what these steps were. A week later he sent another document, which he requested the House to return without publication;<sup>3</sup> it was a letter which Governor Claiborne had received from Governor Salcedo, denying responsibility for the Intendant's act, and asserting that it was not authorized by the Spanish government. The House shut its doors and debated a week. Then it reopened its doors, and announced to the world that by a party

<sup>1</sup> Thornton to Lord Hawkesbury, Jan. 3, 1803; MSS. British Archives.

<sup>2</sup> Message of Dec. 22, 1802; State Papers, ii. 469.

<sup>3</sup> Message of Dec. 30, 1802; State Papers, ii. 471.

vote of fifty to twenty-five, the following resolution had been adopted:<sup>1</sup>—

“Adhering to that humane and wise policy which ought ever to characterize a free people, and by which the United States have always professed to be governed; willing at the same time to ascribe this breach of compact to the unauthorized misconduct of certain individuals rather than to a want of good faith on the part of his Catholic Majesty; and relying with perfect confidence on the vigilance and wisdom of the Executive, — they will wait the issue of such measures as that department of the Government shall have pursued for asserting the rights and vindicating the injuries of the United States.”

Strenuously as the President exerted himself to stifle the warlike feeling in Congress, his influence did not extend far enough to check the same feeling elsewhere. Successful in Washington, he found himself exposed to an alarming pressure from the West. One State legislature after another adopted resolutions which shook the ground under his feet. Eighteen months had passed since the seriousness of Napoleon's schemes became known to him, but as yet he had done nothing that could be construed as an attempt to represent the demands of the western country; all his ingenuity had, in fact, been exerted to evade these demands. The West wanted troops at Natchez, to seize New Orleans at the first sign of a French occupation; but the use of force at that

<sup>1</sup> Resolutions of Jan. 7, 1803; *Annals of Congress*, 1802–1803, p. 339.



stage was not in Jefferson's thoughts. To quiet Kentucky and Tennessee without satisfying them was a delicate matter ; but, delicate as it was, Jefferson succeeded in doing it. He explained his plan in a letter to Monroe, written at the moment when everything depended on Monroe's aid :<sup>1</sup> —

“ The agitation of the public mind on occasion of the late suspension of our right of deposit at New Orleans is extreme. In the western country it is natural, and grounded on honest motives ; in the seaports it proceeds from a desire for war, which increases the mercantile lottery ; in the Federalists generally, and especially those of Congress, the object is to force us into war if possible, in order to derange our finances ; or if this cannot be done, to attach the western country to them as their best friends, and thus get again into power. Remonstrances, memorials, etc., are now circulating through the whole of the western country, and signed by the body of the people. The measures we have been pursuing, being invisible, do not satisfy their minds. Something sensible, therefore, has become necessary.”

This sensible, or rather this tangible, measure was the appointment of a minister extraordinary to aid Livingston in buying New Orleans and the Floridas. The idea was adopted after the secret debate in the House. As Madison wrote soon afterward to Livingston,<sup>2</sup> “ such has been the impulse given to the public mind ” by these debates and by the press, “ that every branch of the government has felt the

<sup>1</sup> Jefferson to Monroe, Jan. 13, 1803; Works, iv. 453.

<sup>2</sup> Madison to Livingston, Jan. 18, 1803; State Papers, ii. 529.

obligation of taking the measures most likely not only to re-establish our present rights, but to promote arrangements by which they may be enlarged and more effectually secured." According to this view, the impulse of Congress and the Press alone made the Executive feel its obligation. For more than a year the Executive had known the danger and had done nothing; being obliged to do something, its first object was to avoid doing too much.

Accordingly, General Smith of Maryland, Jan. 11, 1803, carried the House again into secret session, and moved to appropriate two million dollars "to defray any expenses which may be incurred in relation to the intercourse between the United States and foreign nations." The next day a committee reported, through Joseph Nicholson, in favor of appropriating the money, with a view to purchasing West Florida and New Orleans.<sup>1</sup> The Report argued that there was no alternative between purchase and war. Meanwhile, January 11, the President sent to the Senate the name of James Monroe as minister extraordinary to France and Spain to help Livingston and Pinckney in "enlarging and more effectually securing our rights and interests in the river Mississippi and in the territories eastward thereof."

The nomination was approved by the Senate January 13; and without losing a moment, Jefferson

<sup>1</sup> Report of Jan. 12, 1803; *Annals of Congress, 1802-1803*, pp. 371-374.

wrote to Monroe, explaining the reasons which made his course necessary :<sup>1</sup> —

“The measure has already silenced the Federalists here. Congress will no longer be agitated by them; and the country will become calm as fast as the information extends over it. All eyes, all hopes, are now fixed on you; and were you to decline, the chagrin would be universal, and would shake under your feet the high ground on which you stand with the public. Indeed, I know nothing which would produce such a shock; for on the event of this mission depend the future destinies of this Republic. If we cannot, by a purchase of the country, insure to ourselves a course of perpetual peace and friendship with all nations, then, as war cannot be distant, it behooves us immediately to be preparing for that course, without however hastening it; and it may be necessary, on your failure on the Continent, to cross the Channel. We shall get entangled in European politics; and, figuring more, be much less happy and prosperous.”

With infinite pertinacity Jefferson clung to his own course. He deserved success, although he hardly expected to win it by means of Monroe, whom he urged to go abroad, as his letter implied, not so much to purchase New Orleans, as to restore political quiet at home. For the purchase of New Orleans, Livingston was fully competent; but the opposition at home, as Jefferson candidly wrote to him,<sup>2</sup> were pressing their inflammatory resolutions in the House so hard that “as a remedy to all this we determined to name

<sup>1</sup> Jefferson to Monroe, Jan. 13, 1803; Works, iv. 453.

<sup>2</sup> Jefferson to Livingston, Feb. 3, 1803; Works, iv. 460.

a minister extraordinary to go immediately to Paris and Madrid to settle this matter. This measure being a visible one, and the person named peculiarly popular with the western country, crushed at once and put an end to all further attempts on the Legislature. From that moment all has been quiet." The quiet was broken again, soon after this letter was written, by a sharp attack in the Senate. Ross of Pennsylvania, White of Delaware, and Gouverneur Morris of New York, assailed the Administration for the feebleness of its measures. In private, Jefferson did not deny that his measures were pacific, and that he had no great confidence in Monroe's success; he counted rather on Bonaparte's taking possession of New Orleans and remaining some years on the Mississippi.<sup>1</sup>

"I did not expect he would yield until a war took place between France and England; and my hope was to palliate and endure, if Messrs. Ross, Morris, etc., did not force a premature rupture, until that event. I believed the event not very distant, but acknowledge it came on sooner than I had expected."

"To palliate and endure" was therefore the object of Jefferson's diplomacy for the moment. Whether the Western States could be persuaded to endure or to palliate the presence of a French army at New Orleans was doubtful; but Jefferson's success in controlling them proved his personal authority and political skill. Meanwhile the interest and activity of

<sup>1</sup> Jefferson to Dr. Priestley, Jan. 29, 1804; Works, iv. 524.

the little diplomatic world at Washington increased. Monroe accepted his appointment and came for his instructions. Every one was alive with expectation. As public opinion grew more outspoken, the President was obliged to raise his tone. He talked with a degree of freedom which seemed more inconsistent than it really was with his radical policy of peace. With Thornton he was somewhat cautious.<sup>1</sup> Immediately after Monroe's nomination, Thornton asked the President whether he intended to let the new envoy pass to England and converse with British ministers about the free navigation of the Mississippi, — a right to which Great Britain, as well as the United States, was entitled by treaty.

“The inquiry was somewhat premature, and I made it with some apology. Mr. Jefferson replied, however, unaffectedly, that at so early a stage of the business he had scarcely thought himself what it might be proper to do; that I might be assured the right would never be abandoned by this country; that he wished earnestly for a tranquil and pacific recognition and confirmation of it; that on the whole he thought it very probable that Mr. Monroe might cross the Channel. He reiterated to me with additional force the resolution of the country never to abandon the claim of the free navigation, — which indeed cannot be without dissevering the Western States from the Union, — declaring that should they be obliged at last to resort to force, *they would throw away the scabbard.*”

<sup>1</sup> Thornton to Lord Hawkesbury, Jan. 31, 1803; MSS. British Archives.

Thornton added that the President still hoped the French would not for some time take possession of Louisiana, and rested his hope on the demand which the Island of St. Domingo would create for every soldier that could be spared ; but he also talked of building gunboats for the navigation of the Mississippi.

“In the mean time,” continued Thornton, “the country seems in general well satisfied with the resolution taken by the House and the measure adopted by himself ; and, what is more important, authentic information is received that the people of Kentucky will wait with patience the result of the steps which the executive government may think it right to take, without recurring, as was apprehended would be the case to force, for the assertion of their claims. The President regards this circumstance (with great justice, it appears to me) as the surest pledge of the continuance of his authority, and as the death-blow of the Federal party.”

Upon Pichon the Government concentrated its threats, and Pichon sent to Talleyrand cry after cry of distress :—

“It is impossible to be more bitter than this Government is at the present posture of affairs and at the humiliating attitude in which our silence about Louisiana places them. . . . Mr. Jefferson will be forced to yield to necessity his pretensions and scruples against a British alliance. I noticed at his table that he redoubled his civilities and attentions to the British *chargé*. I should also say that he treats me with much consideration and politeness, in spite of the actual state of affairs.”



No sooner had Monroe been confirmed by the Senate, than Secretary Madison sent for Pichon and asked him to do what he could for the success of Monroe's mission.<sup>1</sup> At ample length he explained that the undivided possession of New Orleans and West Florida was a necessity for the American settlements on the upper Mississippi and Mobile rivers, and that Monroe was instructed to obtain the whole territory east of the Mississippi, including New Orleans, at a price not exceeding two or three million dollars. This part of the Secretary's argument was simple; but not content with this, "he entered into details to prove that New Orleans had no sort of interest for us, that its situation was acknowledged to be bad, the choice of it was due to accident, and we might very soon build a city on the opposite bank." He argued further that the true policy of France required her to make the river her boundary against the United States; for "the United States had no interest in seeing circumstances rise which should eventually lead their population to extend itself on the right bank. In point of fact, was it not evident that since these emigrations tended to weaken the State and to slacken the concentration of its forces, sound policy ought not to encourage them? In spite of affinities in manners and language, no colony beyond the river could exist under the same government, but would infallibly give birth to a separate State having

<sup>1</sup> Pichon to Talleyrand, 4 Pluviôse, An xi. (Jan. 24, 1803); Archives des Aff. Étr., MSS.

in its bosom germs of collision with the East, the easier to develop in proportion to the very affinities between the two empires." The Secretary ended by hinting that should the First Consul not be persuaded by these suggestions, "it might happen that the conduct of France would decide political combinations which, getting the upper hand of all these considerations, would tend to produce results no doubt disagreeable to the United States, but certainly still more so to France and her allies."

Pichon was a sore trial to the moderate amount of patience which Bonaparte possessed. Instead of hinting to Madison that these arguments would have more weight if the President proposed to support them by acts such as a military First Consul was accustomed to respect, Pichon wrote melancholy accounts of his situation to Talleyrand. The Americans, he said, were throwing themselves into the arms of England; they thought they held the balance of power between France and Great Britain, and meant to make the nation which should force them into war regret the inconsiderate act; the States of New York, Virginia, Maryland, and Pennsylvania, either through their legislatures or their governors, had energetically announced their readiness to risk everything to maintain the dignity and rights of the nation; Madison refused to do business, on the ground that Talleyrand's want of attention to Livingston required reprisals; the Secretary of the Treasury talked of war; a public dinner had been given to Monroe, at which

General Smith offered the toast, "Peace, if peace is honorable ; war, if war is necessary !" the President was open in denouncing Bonaparte's ambition ; Monroe who had talked long with Pichon, used language even more startling than that of the President or the Cabinet : —

"He did not conceal from me that if his negotiation failed, the Administration had made up its mind to act with the utmost vigor, and to receive the overtures which England was incessantly making. He repeated to me several times that I could only imperfectly imagine the extent of those overtures, and that if the tie were once made between the two States, they would not stop half way."<sup>1</sup>

If Monroe made such an assertion as Pichon reported, he carried his diplomacy beyond the line of truthfulness ; for although Thornton, without instructions, had offered one or two suggestions of concert, England had made no overture. Monroe's own instructions rested on the opposite principle, — that England was to receive, not to make, overtures. Jefferson wished only to create the impression that disaster impended over France if she persevered in closing the Mississippi. He spoke clearly to this effect in a letter written to Dupont at the time he was alarming Pichon : —

"Our circumstances are so imperious as to admit of no delay as to our course, and the use of the Mississippi

<sup>1</sup> Pichon to Talleyrand, 29 Pluviôse, An xi. (Feb. 17, 1803); Archives des Aff. Étr., MSS.

so indispensable that we cannot hesitate one moment to hazard our existence for its maintenance. If we fail in this effort to put it beyond the reach of accident, we see the destinies we have to run, and prepare at once for them.”<sup>1</sup>

Alarmed by such language, Pichon volunteered to imitate Yrujo and write a letter to the future French prefect whose arrival at New Orleans was expected, urging him to raise the interdict on American commerce.<sup>2</sup> Madison was pleased with the offer, and in return communicated to Pichon a despatch just received from Livingston, which announced that Talleyrand had consented to speak, so far as to promise that France would strictly observe in Louisiana the treaties which existed between America and Spain. “I quickly saw, by the rapidity with which this news circulated in the two houses of Congress, the salutary effect it produced. On all sides I was talked with, and the Administration is sincerely satisfied by it.” Small as the favor was, the Administration had reason to be grateful, as it served for the moment to pacify Kentucky and Tennessee.

The months of January and February passed. Not until spring came, and the Seventh Congress was about to expire, did Monroe receive his instructions and prepare to sail. The nature of these in-

<sup>1</sup> Jefferson to Dupont, Feb. 1, 1803 ; Works, iv. 456.

<sup>2</sup> Pichon to Talleyrand, 24 Pluviôse, An xi. (Feb. 12, 1803) ; Archives des Aff. Étr., MSS.

structions was so remarkable as to deserve a moment of study.<sup>1</sup>

They were framed to provide for three contingencies. Should the French government be willing to sell New Orleans and the Floridas, the President would bid high rather than lose the opportunity. Should France refuse to cede any territory whatever, even the site for a town, the two commissioners were to content themselves with securing the right of deposit, with such improvements as they could obtain. Should Bonaparte deny the right of deposit also, the commissioners were to be guided by instructions specially adapted to the case. For New Orleans and West Florida Monroe and Livingston were to offer any sum within ten million dollars, commercial privileges for ten years in the ceded ports, incorporation of the inhabitants on an equal footing with citizens without unnecessary delay, and, if absolutely necessary, a guaranty of the west bank of the Mississippi.

These were the main ideas of Monroe's instructions. In brief, they offered to admit the French to Louisiana without condition. Bonaparte could have regarded nothing in these instructions as hostile to his own plans, and could have satisfied every demand by giving the United States, in the terms of the Spanish treaty, a place of deposit anywhere on the banks of the Mississippi, or by merely allowing American

<sup>1</sup> Instructions to Livingston and Monroe, March 2, 1803; State Papers, ii. 540.

vessels to pass up and down the river.<sup>1</sup> In private, Jefferson professed preference for Natchez over New Orleans as the seat of American trade.<sup>2</sup> He made no secret of his intention to put off the day of forcible resistance until the national debt should be reduced and the Mississippi Valley filled with fighting men.

The tenor of these expressions seemed inconsistent with that of his letters by Dupont. After telling Bonaparte that<sup>3</sup> "the cession of New Orleans and the Floridas to us would be a palliation," but no more, to the presence of France on the west bank, which would "cost France, and perhaps not very long hence, a war which will annihilate her on the ocean," then within a year to guarantee France forever in possession of the west bank,—had an air of vacillation. After telling Dupont again in February that if the United States failed to put the use of the Mississippi beyond the reach of accident, they should see the destinies they had to run, and at once prepare for them; then within a month to admit Bonaparte to possession of all Spanish rights at New Orleans, without guaranty of any kind for putting the use of the river beyond accident,—looked like fear. The instructions contained one positive expression:

<sup>1</sup> Madison to Monroe, April 20, 1803; Madison's Writings, ii. 181.

<sup>2</sup> Jefferson to Hugh Williamson, April 30, 1803; Works, iv. 483.

<sup>3</sup> Jefferson to Dupont, April 25, 1802; Works, iv. 435.



“The United States cannot remain satisfied, nor the Western people be kept patient, under the restrictions which the existing treaty with Spain authorizes.” This sentence introduced only a moderate request: “Should it be impossible to procure a complete jurisdiction over any convenient spot whatever, it will only remain to explain and improve the present right of deposit by adding thereto the express privilege of holding real estate for commercial purposes, of providing hospitals, of having consuls residing there,” and other commercial agents. Even this moderate condition was not an ultimatum. Madison required only that the Spanish treaty of 1795 should be respected, and this had already been promised by Talleyrand.

In truth the inconsistency was more apparent than real. Jefferson explained to the French government that the war he had in his mind was a contingent result. While assuring Dupont that if he failed to put the use of the Mississippi beyond the reach of accident he should prepare for war, he added in italics an explanation:<sup>1</sup>—

“Not but that we shall still endeavor to go on in peace and friendship with our neighbors as long as we can, *if our rights of navigation and deposit are respected*; but as we foresee that the caprices of the local officers and the abuse of those rights by our boatmen and navigators, which neither government can prevent, will keep up a state of irritation which cannot long be kept inac-

<sup>1</sup> Jefferson to Dupont, Feb. 1, 1803; Works, iv. 456.

tive, we should be criminally improvident not to take at once eventual measures for strengthening ourselves for the contest."

The essence and genius of Jefferson's statesmanship lay in peace. Through difficulties, trials, and temptations of every kind he held fast to this idea, which was the clew to whatever seemed inconsistent, feeble, or deceptive in his administration. Yielding often, with the suppleness of his nature, to the violence of party, he allowed himself to use language which at first sight seemed inconsistent, and even untruthful; but such concessions were momentary: the unswerving intent could always be detected under every superficial disguise; the consistency of the career became more remarkable on account of the seeming inconsistencies of the moment. He was pliant and yielding in manner, but steady as the magnet itself in aim. His manœuvres between the angry West and the arbitrary First Consul of France offered an example of his political method. He meant that there should be no war. While waiting to hear the result of Monroe's mission he wrote to an English correspondent a letter<sup>1</sup> which expressed his true feelings with apparent candor:—

"We see . . . with great concern the position in which Great Britain is placed, and should be sincerely afflicted were any disaster to deprive mankind of the benefit of such a bulwark against the torrent which has

<sup>1</sup> Jefferson to Sir John Sinclair, 30 June, 1803; Works, iv. 490.

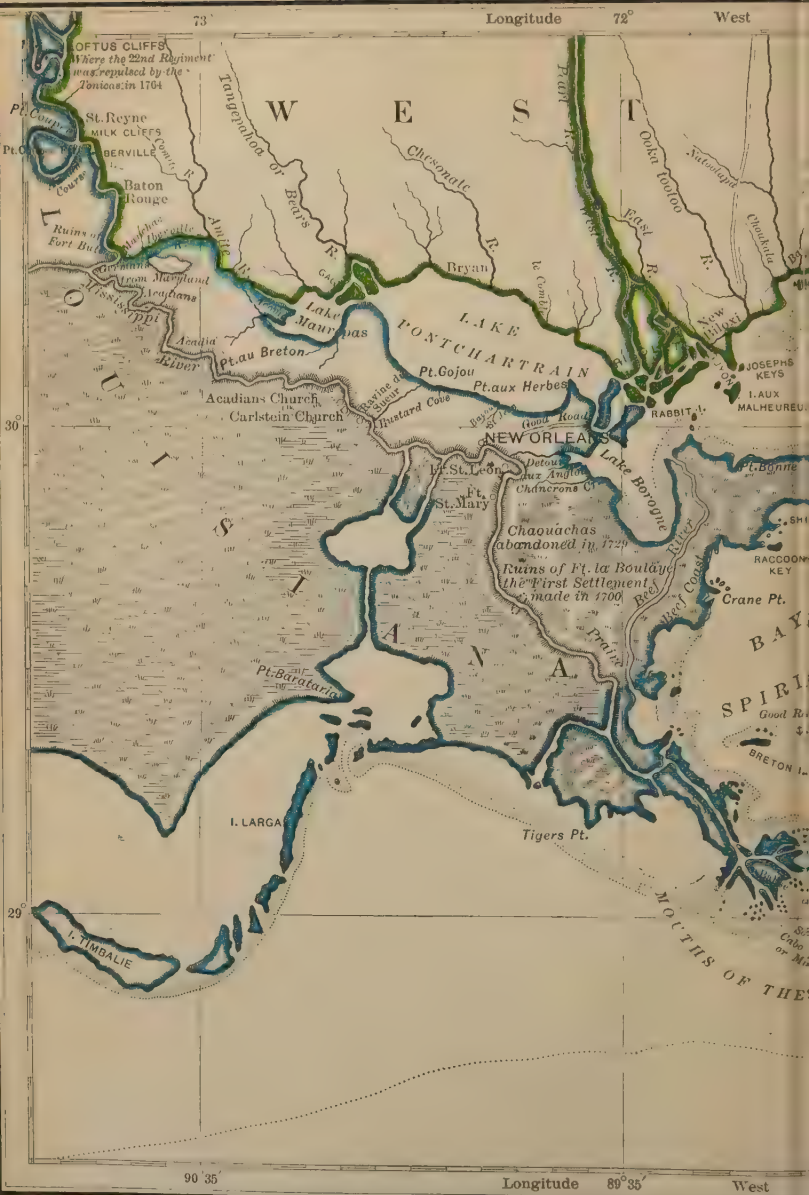
for some time been bearing down all before it. But her power and prowess by sea seem to render everything safe in the end. Peace is our passion, and wrongs might drive us from it. We prefer trying *every* other just principle, right and safety, before we would recur to war."

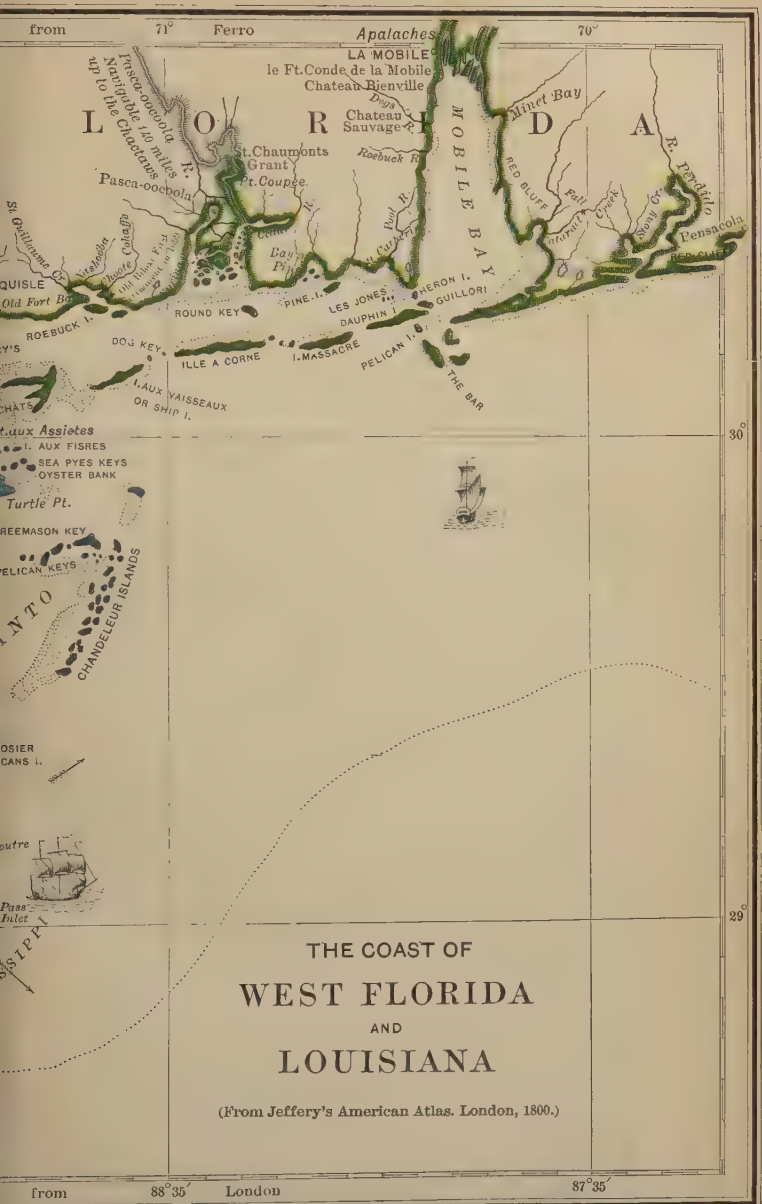
## BOOK II













# HISTORY OF THE UNITED STATES.

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## CHAPTER I.

CONGRESS expired ; Monroe set sail March 8, 1803 ; Washington relapsed into silence ; and the President and his Cabinet waited alone in the empty village, triumphing for the moment over their difficulties. Although a French prefect was actually in New Orleans, and the delivery of Louisiana to Bonaparte might from day to day be expected, not an additional soldier stood on the banks of the Mississippi, and the States of Kentucky and Tennessee were as quiet as though their flat-boats still floated down to New Orleans. A month passed before Madison or Jefferson again moved. Then the President asked his Cabinet<sup>1</sup> what Monroe should do in case France, as he expressed it, “refused our rights.” He proposed an alliance with England, and suggested three inducements which might be offered to Great Britain : “1. Not to make a separate peace. 2. To let her

<sup>1</sup> Cabinet Memoranda of Mr. Jefferson, April 8, 1803 ; Jefferson's Writings (Ford), i. 298.

take Louisiana. 3. Commercial privileges." The Cabinet unanimously rejected the second and third concessions, but Dearborn and Lincoln were alone in opposing the first; and a majority agreed to instruct Monroe and Livingston, "as soon as they find that no arrangements can be made with France, to use all possible procrastination with them, and in the mean time enter into conferences with the British government, through their ambassador at Paris, to fix principles of alliance, and leave us in peace till Congress meets; and prevent war till next spring."

Madison wrote the instructions. If the French government, he said,<sup>1</sup> should meditate hostilities against the United States, or force a war by closing the Mississippi, the two envoys were to invite England to an alliance, and were to negotiate a treaty stipulating that neither party should make peace or truce without consent of the other. Should France deny the right of deposit without disputing the navigation, the envoys were to make no positive engagement, but should let Congress decide between immediate war or further procrastination.

At no time in Talleyrand's negotiations had the idea of war against the United States been suggested. Of his intentions in this respect alone he had given positive assurances.<sup>2</sup> Above all things both he and the First Consul feared a war with the United States.

<sup>1</sup> Madison to Livingston and Monroe, April 18 and 20, 1803; State Papers, ii. 555.

<sup>2</sup> Livingston to Madison, Nov. 11, 1802; State Papers, ii. 526.

They had nothing to gain by it. Madison's instructions therefore rested on an idea which had no foundation, and which in face of the latest news from Europe was not worth considering; yet even if intended only for use at home, the instructions were startling enough to warrant Virginians in doubting their authenticity. The late Administration, British in feeling as it was supposed to be, had never thought an alliance with England necessary even during actual hostilities with France, and had not hesitated to risk the chances of independent action. Had either of Jefferson's predecessors instructed American ministers abroad, in case of war with France, to bind the United States to make no peace without England's consent, the consequence would have been an impeachment of the President, or direct steps by Virginia, Kentucky, and North Carolina, as in 1798, tending to a dissolution of the Union. Such an alliance, offensive and defensive, with England contradicted every principle established by President Washington in power or professed by Jefferson in opposition. If it was not finesse, it was an act such as the Republicans of 1798 would have charged as a crime.

While Madison was writing these instructions, he was interrupted by the Marquis of Casa Yrujo,<sup>1</sup> who came in triumph to say that his Government had sent out a brigantine especially to tell the President that the right of deposit would be restored and contin-

<sup>1</sup> State Papers, ii. 556.



ued till another agreement or equivalent place could be fixed upon.<sup>1</sup> Yrujo was instructed to thank the President for his friendly, prudent, and moderate conduct during the excitement. He sent to New Orleans the positive order of King Charles IV. to the Intendant Morales, that the right of deposit should be immediately restored; the western people were told that their produce might go down the river as before, and thus the last vestige of anxiety was removed. In face of this action by Godoy, and of the war evidently at hand between France and England, the success of the peace policy was assured. These events in some degree explained the extraordinary nature of the new instructions of April, 1803.

Monroe was then already at Paris. In order to make clear the situation in which he found himself, the sequence of events in Europe needs to be understood.

Bonaparte's expedition to Louisiana was to have sailed at the end of September, 1802.<sup>2</sup> A general of division, three generals of brigade, five battalions of infantry, two companies of artillery, sixteen pieces of cannon, and three thousand muskets were to be collected at Dunkirk for shipment; but as fast as regiments could be named they were consumed by the fiery furnace of St. Domingo. Nevertheless, all

<sup>1</sup> Yrujo to Madison, Notes of April 19 and 20, 1803; MSS. State Department Archives.

<sup>2</sup> Bonaparte to Decrès, 6 Fructidor, An x. (Aug. 24, 1802); Correspondance, viii. 4.

the orders and arrangements were gradually made. Victor was to command the forces in Louisiana; Laussat was to be prefect, charged with the civil administration. Both received elaborate written instructions; and although Victor could not sail without ships or troops, Laussat was sent on his way.

These instructions, which were never published, had extreme value for the decision of disputes which were to perturb American politics for the next twenty years. Although Victor was forced to wait in Holland for the expedition he commanded, a copy of his instructions was given to Laussat, and served to regulate his conduct as long as he remained in office. Decrès, the Minister of Marine, was the author of this paper, which unfolded the purpose that had guided France in recovering, and was to control her in administering, this vast possession. Nothing could be simpler, clearer, or more consistent with French policy than this document, which embodied so large a part of Talleyrand's political system.

The instructions began, as was natural, by a careful definition of the new province. After reciting the terms of the retrocession according to the Third Article of Berthier's Treaty, Decrès fixed the boundaries of the territory which Victor, on the part of the French republic, was to receive from the Marquis of Somoruelos, the Captain-General of Cuba.<sup>1</sup>

<sup>1</sup> Instructions secrètes pour le Capitaine-Général de la Louisiane, approuvées par le Premier Consul le 5 Frimaire, An xi. (Nov. 26, 1802); Archives de la Marine, MSS.

“The extent of Louisiana,” he said, “is well determined on the south by the Gulf of Mexico. But bounded on the west by the river called Rio Bravo from its mouth to about the 30° parallel, the line of demarcation stops after reaching this point, and there seems never to have been any agreement in regard to this part of the frontier. The farther we go northward, the more undecided is the boundary. This part of America contains little more than uninhabited forests or Indian tribes, and the necessity of fixing a boundary has never yet been felt there. There also exists none between Louisiana and Canada.”

In this state of things the captain-general would have to relieve the most remote Spanish garrisons, in order to establish possession; in other respects he would be guided only by political and military interests. The western and northern boundary was of less consequence than the little strip which separated New Orleans from Mobile; and to this point the instructions specially called Victor's attention. Quoting the treaty of 1763 between Spain, Great Britain, and France, when Florida was to become a British possession, Decrès fixed its terms as still binding upon all the interested parties.

“‘It is agreed,’” said the seventh article of this treaty, “‘that in future the boundaries between the States of his Most Christian Majesty and those of his Britannic Majesty shall be irrevocably fixed by a line drawn down the middle of the Mississippi River from its source to the River Iberville, and from there by a line down the middle

of that river and of the lakes Maurepas and Pontchartrain to the sea. New Orleans and the island on which it stands shall belong to France.' Such is still to-day the eastern limit of Louisiana. All to the east and north of this limit makes part of the United States or of West Florida."

Nothing could be clearer. Louisiana stretched from the Iberville to the Rio Bravo; West Florida from the Iberville to the Appalachicola. The retrocession of Louisiana by Spain to France could restore only what France had ceded to Spain in 1762. West Florida had nothing to do with the cession of 1762 or the retrocession of 1800, and being Spanish by a wholly different title could not even be brought in question by the First Consul, much as he wanted Baton Rouge, Mobile, and Pensacola. Victor's orders were emphatic: —

"There is therefore no obscurity as to our boundary on this side any more than as to that of our allies; and although Florida belongs to Spain, Spain's right of property in this quarter will have as much interest for the Captain-General of Louisiana as though Florida were a French possession."

After thus establishing the boundary, as far as possible, in every direction, the minister treated at some length of the English claim to navigation on the Mississippi, and at last reached the general subject of the relation between Louisiana and the world about it, — the subject in which Jefferson would have found acute interest: —

“The system of this, as of all our other colonies, should be to concentrate its commerce in the national commerce; it should have in particular the aim of establishing its relations with our Antilles, so as to take the place, in these colonies, of the American commerce for all the objects whose import and export is permitted to them. The captain-general should especially abstain from every innovation favorable to strangers, who should be restricted to such communications as are absolutely indispensable to the prosperity of Louisiana and to such as are explicitly determined by the treaties.”

Commercial relations with the Spanish colonies were to be encouraged and extended as much as possible, while the utmost caution was to be observed toward the United States:—

“From what has been said of Louisiana and the adjacent States, it is clear that the republic of France, being master of both banks at the mouth of the Mississippi, holds the key to its navigation. This navigation is nevertheless a matter of the highest importance for the western States of the Federal Government. . . . This is enough to show with what jealousy the Federal Government will see us take possession of Louisiana. Whatever may be the events which this new part of the continent has to expect, the arrival of the French forces should be marked there by the expression of sentiments of great benevolence for these new neighbors.”

Expression of benevolent sentiments was a pleasing duty; but it was not to interfere with practical measures, both defensive and offensive:—

“The greatest circumspection will be required in directing the colonial administration. A little local experience will soon enable you to discern the sentiments of the western provinces of the Federal Government. It will be well to maintain sources of intelligence in that country, whose numerous, warlike, and sober population may present you a redoubtable enemy. The inhabitants of Kentucky especially should fix the attention of the captain-general. . . . He must also fortify himself against them by alliance with the Indian nations scattered to the east of the river. The Chibackas, Choctaws, Alabamas, Creeks, etc., are represented as being entirely devoted to us. . . . He will not forget that the French government wishes peace; but that if war takes place, Louisiana will certainly become the theatre of hostilities. . . . The intention of the First Consul is to raise Louisiana to a degree of strength which will allow him in time of war to abandon it to its own resources without anxiety; so that enemies may be forced to the greatest sacrifices merely in attempting to attack it.”

In these instructions not a word could be found which clashed with Jefferson's pacific views; and partly for that reason they were more dangerous to the United States than if they had ordered Victor to seize American property on the Mississippi and occupy Natchez with his three thousand men. Victor was instructed, in effect, to tamper with every adventurer from Pittsburg to Natchez; buy up every Indian tribe in the Georgia and Northwestern Territory; fortify every bluff on the western bank from St. Louis to New Orleans; and in a few years create a series



of French settlements which would realize Madison's "sound policy" of discouraging the United States from colonizing the west bank.

Fortified by these instructions, the Citizen Laussat set sail Jan. 12, 1803, and in due time arrived at New Orleans. Victor labored in Holland to put his ships and supplies in a condition to follow. As Laussat sailed, another step was taken by the French government. General Bernadotte, a very distinguished republican officer, brother-in-law of Joseph Bonaparte, was appointed minister at Washington.<sup>1</sup> The First Consul had his own reasons for wishing to remove Bernadotte, as he meant to remove Moreau; and Washington was a place of indirect banishment for a kinsman whose character was to be feared. Bernadotte's instructions<sup>2</sup> were signed by Talleyrand Jan. 14, 1803, the day after Monroe was confirmed as special envoy to France by the Senate at Washington, and while Laussat was still on the French coast. Although Bonaparte had been obliged to withdraw a part of Victor's force, he still intended that the expedition should start at once with two thousand men;<sup>3</sup> and its departure was to be so timed that Bernadotte should reach Washington as Victor and his troops reached New Orleans. Their instructions were on one

<sup>1</sup> Livingston to Madison, Feb. 18, 1803; State Papers, ii. 533.

<sup>2</sup> Talleyrand to Bernadotte, 24 Nivôse, An xi. (Jan. 14, 1803); Archives des Aff. Étr., MSS.

<sup>3</sup> Correspondance, viii. 145; Bonaparte to Decrès, 28 Frimaire, An xi. (Dec. 19, 1802).

point identical. News of the closure of the Mississippi by Morales had reached Paris, and had already caused an official protest by Livingston, when Talleyrand drew up the instructions to Bernadotte: —

“ Louisiana being soon to pass into our hands, with all the rights which have belonged to Spain, we can only with pleasure see that a special circumstance has obliged the Spanish Administration to declare formally [*constater*] its right to grant or to refuse at will to the Americans the privilege of a commercial *entrepôt* at New Orleans; the difficulty of maintaining this position will be less for us than that of establishing it. . . . Yet in any discussion that may arise on this subject, and in every discussion you may have to sustain, the First Consul wishes you to be informed of his most positive and pronounced desire to live in good understanding with the American government, to cultivate and to improve for the advantage of American commerce the relations of friendship which unite the two peoples. No one in Europe wishes the prosperity of that people more than he. In accrediting you to its Government he has given it a peculiar mark of his good disposition; he doubts not that you will make every effort to bind closer the ties which exist between the two nations. In consequence of the firm intention which the First Consul has shown on this subject, I must recommend you to take every care to avoid whatever might alter our relations with that nation and its Government. The agents of the French republic in the United States should forbid themselves whatever might even remotely lead to a rupture. In ordinary communication, every step should show the benevolent disposition and mutual friendship which animate the chiefs

and all the members of the two Governments; and when any unforeseen difficulty rises which may in any degree whatever compromise their good understanding, the simplest and most effectual means of preventing all danger is to refer its solution to the inquiry and direct judgment of the two Governments."

Talleyrand's language was more elaborate, but not clearer, than that which Bonaparte himself used to Victor.<sup>1</sup>

"I have no need to tell you," the First Consul wrote, "with what impatience the Government will wait for news from you in order to settle its ideas in regard to the pretensions of the United States and their usurpations over the Spaniards. What the Government may think proper to do must not be judged in advance until you have rendered an account of the state of things. Every time you perceive that the United States are raising pretensions, answer that no one has an idea of this at Paris (*que l'on n'a aucune idée de cela à Paris*); but that you have written, and that you are expecting orders."

These were the ideas held by the government of France at the moment when Jefferson nominated Monroe as a special envoy to buy New Orleans and West Florida. Jefferson's hopes of his success were small; and Livingston, although on the spot and eager to try the experiment, could only write:<sup>2</sup> "Do not absolutely despair." Whatever chance existed of ob-

<sup>1</sup> Correspondance, viii. 146; Bonaparte to Victor, 25 Frimaire, An xi. (Dec. 16, 1802).

<sup>2</sup> Livingston to Madison, Dec. 20, 1802; State Papers, ii. 528.

taining New Orleans seemed to lie in the possibility that Addington's peaceful administration in England might be driven into some act contrary to its vital interests; and even this chance was worth little, for so long as Bonaparte wanted peace, he could always keep it. England was thoroughly weary of war; and proved it by patiently looking on while Bonaparte, during the year, committed one arbitrary act after another, which at any previous time would have been followed by an instant withdrawal of the British minister from Paris.

On the other hand, the world could see that Bonaparte was already tired of peace; his *rôle* of beneficent shopkeeper disgusted him, and a new war in Europe was only a question of months. In such a case the blow might fall on the east bank of the Rhine, on Spain, or on England. Yet Bonaparte was in any case bound to keep Louisiana, or return it to Spain. Florida was not his to sell. The chance that Jefferson could buy either of these countries, even in case of a European war, seemed so small as hardly to be worth considering; but it existed, because Bonaparte was not a man like other men, and his action could never be calculated in advance.

The news that Leclerc was dead, that his army was annihilated, St. Domingo ruined, and the negroes more than ever beyond control, reached Paris and was printed in the "Moniteur" Jan. 7, 1803, in the same active week when Bernadotte, Laussat, and Victor were ordered from France to America, and

Monroe was ordered from America to France. Of all the events of the time, Leclerc's death was the most decisive. The colonial system of France centred in St. Domingo. Without that island the system had hands, feet, and even a head, but no body. Of what use was Louisiana, when France had clearly lost the main colony which Louisiana was meant to feed and fortify? The new ruler of France was not unused to failure. More than once he had suddenly given up his dearest plans and deserted his oldest companions when their success was hopeless. He had abandoned Paoli and Corsica with as little compunction as afterward he abandoned the army and the officers whom he led to Egypt. Obstinate in pursuing any object which led to his own advancement, he was quick to see the moment when pursuit became useless; and the difficulties that rose in his path toward colonial empire were quite as great as those which had driven him to abandon Corsica and Egypt. Not only had the island of St. Domingo been ruined by the war, its plantations destroyed, its labor paralyzed, and its population reduced to barbarism, so that the task of restoring its commercial value had become extremely difficult; but other and greater objections existed to a renewal of the struggle. The army dreaded service in St. Domingo, where certain death awaited every soldier; the expense was frightful; a year of war had consumed fifty thousand men and money in vast amounts, with no other result than to prove that at least as many men and as much money would be

still needed before any return could be expected for so lavish an expenditure. In Europe war could be made to support war; in St. Domingo peace alone could but slowly repair some part of this frightful waste.

Leclerc was succeeded at St. Domingo by General Rochambeau, a son of the Comte de Rochambeau, who twenty years before had commanded the French corps which enabled Washington to capture Cornwallis at Yorktown. A brave officer, but known to be little fit for administration, Rochambeau was incompetent for the task that fell on him. Leclerc had warned the Government that in case of his own retirement he had no officer fit to replace him,—least of all Rochambeau, who was next in rank. Rochambeau wrote to inform the First Consul that thirty-five thousand men must be sent to save the island.<sup>1</sup> Without a new commander-in-chief of the highest ability, a new army was useless; and meanwhile Rochambeau was certain to waste the few thousand acclimated soldiers who should form its nucleus.

The First Consul found himself in a difficult and even dangerous situation. Probably the colonial scheme had never suited his tastes, and perhaps he had waited only until he should be firm in power in order to throw off the tutelage of Talleyrand; but the moment had arrived when his tastes coincided

<sup>1</sup> Rochambeau to Decrès, 16 Frimaire, An xi. (Dec. 7, 1802); Archives de la Marine, MSS.



with policy. A second failure at St. Domingo would destroy his own credit, and disgust both the army and the public. Abandonment of the island was equally hazardous; for it required the abandonment of French traditions and a confession of failure. Retirement from St. Domingo was impossible, except under cover of some new enterprise; and as Europe stood, no other enterprise remained for France to undertake which would not lead her armies across the Rhine or the Pyrenees. For this undertaking Bonaparte was not yet ready; but even had he been so, it would have offered no excuse for abandoning the colonies. The ocean would still have been open, and St. Domingo within easy reach.

Only one resource remained. Bonaparte told no one his plans; but he was not a man to hesitate when decision was needed. From the day when news of Leclerc's death arrived, during the first week of January, 1803, the First Consul brooded over the means of abandoning St. Domingo without appearing to desert intentionally a policy dear to France. Talleyrand and Decrès were allowed to go on as before; they gave instructions to Bernadotte, and hurried the preparations of Victor, whom the ice and snow of Holland and the slowness of the workmen held motionless; they prepared a reinforcement of fifteen thousand men for Rochambeau, and Bonaparte gave all the necessary orders for hastening the departure of both expeditions. As late as February 5, he wrote to Decrès that fifteen thousand men had been, or were

about to be, sent to St. Domingo, and that fifteen thousand more must be ready to sail by the middle of August.<sup>1</sup> Yet his policy of abandoning the colonial system had been already decided; for on January 30 the “*Moniteur*” produced Sebastiani’s famous Report on the military condition of the East,—a publication which could have no other object than to alarm England.<sup>2</sup>

Livingston was quick to see the change of policy; but although he understood as much as was known to any one, he could not count with certainty on the result.<sup>3</sup> Not even Joseph and Lucien knew what was in their brother’s mind. Talleyrand seems to have been elaborately deceived; even as late as February 19 he was allowed to instruct General Beurnonville, the French ambassador at Madrid, to express “the warm satisfaction which the last acts of sovereignty exercised by the King of Spain in Louisiana have given to the First Consul.”<sup>4</sup> The last act of sovereignty exercised by Spain in Louisiana had been the closure of the Mississippi. Before Beurnonville could obey this order, Godoy, hastening to anticipate possible interference from France, promised Pinckney, February 28, that the *entrepôt* should be

<sup>1</sup> Correspondance, viii. 201; Bonaparte to Decrès, 16 Pluviôse, An xi. (Feb. 5, 1803).

<sup>2</sup> Lucien Bonaparte et ses Mémoires, Th. Jung, ii. 165, *n.*; Lanfrey’s Napoleon, ii. 495.

<sup>3</sup> Livingston to Madison, Feb. 18, 1803; State Papers, ii. 533.

<sup>4</sup> Beurnonville to Talleyrand, 15 Ventôse, An xi. (March 6, 1803); Archives des Aff. Étr., MSS.

restored. King Charles's order of restitution bore date March 1, 1803; Beurnonville's note, urging the King to sustain Morales, bore date March 4, and March 10 Don Pedro Cevallos replied to Talleyrand's congratulation in a tone so evasive as to show that Godoy was again deceiving the First Consul.<sup>1</sup> Cevallos did not say that the right of deposit had ten days before been restored; he contented himself with mentioning the reasons alleged by Morales for his act, adding at the close the empty assurance that "in every way his Majesty prizes highly the applause of the French government." In January, only a few weeks before, Godoy had told Beurnonville, with unconcealed satisfaction, that Bonaparte should not have Florida, — although without Florida the town of New Orleans was supposed to be of little value. In February he snatched away what he could of New Orleans by replacing the Americans in all their privileges there.

Livingston plied the French officials with arguments and memorials; but he might have spared himself the trouble, for Bonaparte's policy was already fixed. The First Consul acted with the rapidity which marked all his great measures. England at once took Sebastiani's Report as a warning, and began to arm. February 20 Bonaparte sent to the Corps Législatif his Annual Report, or Message, which spoke of Great Britain in language that could not be disregarded;

<sup>1</sup> Cevallos to Beurnonville, March 10, 1803; Archives des Aff. Étr., MSS.

finally, March 12, Livingston saw a melodramatic spectacle which transfixed him with surprise and excitement.<sup>1</sup> The scene was at Madame Bonaparte's drawing-room; the actors were Bonaparte and Lord Whitworth, the British ambassador. "I find, my Lord, your nation want war again!" said the First Consul. "No, sir," replied Whitworth; "we are very desirous of peace." "*I must either have Malta or war!*" rejoined Bonaparte. Livingston received these words from Lord Whitworth himself on the spot; and returning at once to his cabinet, wrote to warn Madison. Within a few days the alarm spread through Europe, and the affairs of St. Domingo were forgotten.

Bonaparte loved long-prepared transformation-scenes. Such a scene he was preparing, and the early days of April, 1803, found the actors eagerly waiting it. All the struggles and passions of the last two years were crowded into the explosion of April. At St. Domingo, horror followed fast on horror. Rochambeau, shut in Port au Prince, — drunken, reckless, surrounded by worthless men and by women more abandoned still, wallowing in the dregs of the former English occupation and of a half-civilized negro empire, — waged as he best could a guerilla war, hanging, shooting, drowning, burning all the negroes he could catch; hunting them with fifteen hundred bloodhounds bought in Jamaica for something more than one hundred dollars each;

<sup>1</sup> Livingston to Madison, March 12, 1803; State Papers, ii. 547.

wasting money, squandering men ; while Dessalines and Christophe massacred every white being within their reach. To complete Bonaparte's work, from which he wished to turn the world's attention, high among the Jura Mountains, where the ice and snow had not yet relaxed their grip upon the desolate little Fortress and its sunless casemate, in which for months nothing but Toussaint's cough had been heard, Commander Amiot wrote a brief military Report to the Minister of Marine :<sup>1</sup> " On the 17th [April 7], at half-past eleven o'clock of the morning, on taking him his food, I found him dead, seated on his chair near his fire." According to Tavernier, doctor of medicine and *chirurgien* of Pontarlier, who performed the autopsy, pleuro-pneumonia was the cause of Toussaint's death.

Toussaint never knew that St. Domingo had successfully resisted the whole power of France, and that had he been truer to himself and his color he might have worn the crown that became the plaything of Christophe and Dessalines ; but even when shivering in the frosts of the Jura, his last moments would have glowed with gratified revenge, had he known that at the same instant Bonaparte was turning into a path which the negroes of St. Domingo had driven him to take, and which was to lead him to parallel at St. Helena the fate of Toussaint himself at the Château de Joux. In these days of passion,

<sup>1</sup> Amiot to Decrès, 19 Germinal, An xi. (April 9, 1803); Archives de la Marine, MSS.

men had little time for thought; and the last subject on which Bonaparte thereafter cared to fix his mind was the fate of Toussaint and Leclerc. That the "miserable negro," as Bonaparte called him, should have been forgotten so soon was not surprising; but the prejudice of race alone blinded the American people to the debt they owed to the desperate courage of five hundred thousand Haytian negroes who would not be enslaved.

If this debt was due chiefly to the negroes, it was also in a degree due to Godoy and to Spain. In the new shifting of scenes, Godoy suddenly found himself, like Toussaint eighteen months before, face to face with Bonaparte bent on revenge. No one knew better than Godoy the dangers that hung over him and his country. Aware of his perils, he tried, as in 1795, to conciliate the United States by a course offensive to France. Not only did he restore the *entrepôt* at New Orleans, but he also admitted the claims for damages sustained by American citizens from Spanish subjects in the late war, and through Don Pedro Cevallos negotiated with Pinckney a convention which provided for a settlement of these claims.<sup>1</sup> Although he refused to recognize in this convention the spoliations made by Frenchmen within Spanish jurisdiction, and insisted that these were in their nature claims against France which Spain was not morally bound to admit, he consented to insert an article copied from the expunged Article II. of

<sup>1</sup> Claims Convention, Aug. 11, 1802; State Papers, ii. 476.



the treaty of Morfontaine, reserving to the United States the right to press these demands at a future time.

So well pleased was Jefferson with the conduct of Spain and the Spanish ministers, that not a complaint was made of ill treatment; and even the conduct of Morales did not shake the President's faith in the friendliness of King Charles. No doubt he mistook the motives of this friendliness, for Spain had no other object than to protect her colonies and commerce on the Gulf of Mexico, and hoped to prevent attack by conciliation; while Madison imagined that Spain might be induced by money to part with her colonies and admit the United States to the Gulf. In this hope he instructed Pinckney,<sup>1</sup> in case he should find that Louisiana had not been retroceded to France, to offer a guaranty of Spanish territory west of the Mississippi as part of the consideration for New Orleans and the Floridas. The offer was made with a degree of cordiality very unlike the similar offer to France, and was pressed by Pinckney so zealously that at last Cevallos evaded his earnestness by a civil equivocation.

"The system adopted by his Majesty," said he,<sup>2</sup> "not to dispossess himself of any portion of his States, deprives him of the pleasure of assenting to the cessions which the United States wish to obtain by purchase. . . .

<sup>1</sup> Madison to Pinckney, May 11, 1802; State Papers, ii. 517.

<sup>2</sup> Cevallos to Pinckney, May 4, 1803; State Papers, ii. 557.

The United States can address themselves to the French government to negotiate the acquisition of territories which may suit their interest."

Cevallos knew that Bonaparte had bound himself formally never to alienate Louisiana, and in referring Pinckney to France he supposed himself safe. Pinckney, on the other hand, prided himself on having helped to prevent France from gaining Florida as well as Louisiana, and was anxious to secure West Florida for his own credit; while he had no idea that Louisiana could be obtained at all.

Yet nearly a week before this note was written Louisiana had become American property. So completely was Godoy deceived, that when April arrived and he saw Spain again about to be dragged into unknown perils, he never divined that he was to be struck in America; his anxieties rose from fear that Spain might be dragged into a new war in Europe, in subservience to France. He could expect to escape such a war only by a quarrel with Napoleon, and he knew that a war with Napoleon was a desperate resource.

In London statesmanship had an easier game, and played it at first simply and coolly. Rufus King watched it with anxious eyes. He wished to escape from the duty of expressing a diplomatic policy which he might not approve, to a Government which had other and heavier tasks than that of listening to his advice or warnings. The British Ministry behaved well to America; for their advices from Thornton led

them to hope that the United States would, if properly supported, seize Louisiana and accept war with Bonaparte. "If you can obtain Louisiana, — well!" said Addington to Rufus King;<sup>1</sup> "if not, we ought to prevent its going into the hands of France."

<sup>1</sup> Rufus King to Madison, April 2, 1803; State Papers, ii. 551.

## CHAPTER II.

MONROE arrived in sight of the French coast April 7, 1803; but while he was still on the ocean, Bonaparte without reference to him or his mission, opened his mind to Talleyrand in regard to ceding Louisiana to the United States. The First Consul a few days afterward repeated to his Finance Minister, Barbé Marbois,<sup>1</sup> a part of the conversation with Talleyrand; and his words implied that Talleyrand opposed Bonaparte's scheme, less because it sacrificed Louisiana than because its true object was not a war with England, but conquest of Germany. "He alone knows my intentions," said Bonaparte to Marbois. "If I attended to his advice, France would confine her ambition to the left bank of the Rhine, and would make war only to protect the weak States and to prevent any dismemberment of her possessions; but he also admits that the cession of Louisiana is not a dismemberment of France." In reality, the cession of Louisiana meant the overthrow of Talleyrand's influence and the failure of those hopes which had led to the coalition of the 18th Brumaire.

<sup>1</sup> History of Louisiana, Barbé Marbois, p. 277.

Easter Sunday, April 10, 1803, arrived, and Monroe was leaving Havre for Paris, when Bonaparte, after the religious ceremonies of the day at St. Cloud, called to him two of his ministers, of whom Barbé Marbois was one.<sup>1</sup> He wished to explain his intention of selling Louisiana to the United States; and he did so in his peculiar way. He began by expressing the fear that England would seize Louisiana as her first act of war. "I think of ceding it to the United States. I can scarcely say that I cede it to them, for it is not yet in our possession. If, however, I leave the least time to our enemies, I shall only transmit an empty title to those republicans whose friendship I seek. They ask of me only one town in Louisiana; but I already consider the colony as entirely lost; and it appears to me that in the hands of this growing Power it will be more useful to the policy, and even to the commerce, of France than if I should attempt to keep it."

To this appeal the two ministers replied by giving two opposite opinions. Marbois favored the cession, as the First Consul probably expected him to do; for Marbois was a republican who had learned republicanism in the United States, and whose attachment to that country was secured by marriage to an American wife. His colleague, with equal decision, opposed the scheme. Their arguments were waste of breath. The First Consul said no more, and dismissed them; but the next morning, Monday, April 11, at daybreak,

<sup>1</sup> History of Louisiana, Barbé Marbois, p. 263.

summoning Marbois, he made a short oration of the kind for which he was so famous : <sup>1</sup> —

“ Irresolution and deliberation are no longer in season ; I renounce Louisiana. It is not only New Orleans that I cede ; it is the whole colony, without reserve. I know the price of what I abandon. I have proved the importance I attach to this province, since my first diplomatic act with Spain had the object of recovering it. I renounce it with the greatest regret ; to attempt obstinately to retain it would be folly. I direct you to negotiate the affair. Have an interview this very day with Mr. Livingston.”

The order so peremptorily given was instantly carried out ; but not by Marbois. Talleyrand, in an interview a few hours afterward, startled Livingston with the new offer.<sup>2</sup>

“ M. Talleyrand asked me this day, when pressing the subject, whether we wished to have the whole of Louisiana. I told him no ; that our wishes extended only to New Orleans and the Floridas ; that the policy of France, however, should dictate (as I had shown in an official note) to give us the country above the River Arkansas, in order to place a barrier between them and Canada. He said that if they gave New Orleans the rest would be of little value, and that he would wish to know ‘ what we would give for the whole.’ I told him it was a subject I had not thought of, but that I supposed we should not object to twenty millions [francs], provided our citizens

<sup>1</sup> Marbois's Louisiana, p. 274.

<sup>2</sup> Livingston to Madison, April 11, 1803 ; State Papers, ii. 552.



were paid. He told me that this was too low an offer, and that he would be glad if I would reflect upon it and tell him to-morrow. I told him that as Mr. Monroe would be in town in two days, I would delay my further offer until I had the pleasure of introducing him. He added that he did not speak from authority, but that the idea had struck him."

The suddenness of Bonaparte's change disconcerted Livingston. For months he had wearied the First Consul with written and verbal arguments, remonstrances, threats,—all intended to prove that there was nothing grasping or ambitious in the American character; that France should invite the Americans to protect Louisiana from the Canadians; that the United States cared nothing for Louisiana, but wanted only West Florida and New Orleans,—“barren sands and sunken marshes,” he said; “a small town built of wood; . . . about seven thousand souls;” a territory important to the United States because it contained “the mouths of some of their rivers,” but a mere drain of resources to France.<sup>1</sup> To this rhapsody, repeated day after day for weeks and months, Talleyrand had listened with his imperturbable silence, the stillness of a sceptical mind into which such professions fell meaningless; until he suddenly looked into Livingston's face and asked: “What will you give for the whole?” Naturally Livingston for a moment lost countenance.

<sup>1</sup> Livingston to Talleyrand, Jan. 10, 1803; Livingston to Bonaparte, Feb. 27, 1803; State Papers, ii. 531, 539.

The next day, Tuesday, April 12, Livingston, partly recovered from his surprise, hung about Talleyrand persistently, for his chance of reaping alone the fruit of his labors vanished with every minute that passed. Monroe had reached St. Germain late Monday night, and at one o'clock Tuesday afternoon descended from his postchaise at the door of his Paris hotel.<sup>1</sup> From the moment of his arrival he was sure to seize public attention at home and abroad. Livingston used the interval to make one more effort with Talleyrand:<sup>2</sup>—

“He then thought proper to declare that his proposition was only personal, but still requested me to make an offer; and upon my declining to do so, as I expected Mr. Monroe the next day, he shrugged up his shoulders and changed the conversation. Not willing, however, to lose sight of it, I told him I had been long endeavoring to bring him to some point, but unfortunately without effect; and with that view had written him a note which contained that request. . . . He told me he would answer my note, but that he must do it evasively, because Louisiana was not theirs. I smiled at this assertion, and told him that I had seen the treaty recognizing it. . . . He still persisted that they had it in contemplation to obtain it, but had it not.”

An hour or two afterward came a note from Monroe announcing that he would wait upon Livingston in

<sup>1</sup> Memoir of James Monroe, 1828; Colonel Mercer's Journal, p. 55.

<sup>2</sup> Livingston to Madison, April 13, 1803; State Papers, ii. 552.

the evening. The two American ministers passed the next day together,<sup>1</sup> examining papers and preparing to act whenever Monroe could be officially presented. They entertained a party at dinner that afternoon in Livingston's apartments, and while sitting at table Livingston saw Barbé Marbois strolling in the garden outside. Livingston sent to invite Marbois to join the party at table. While coffee was served, Marbois came in and entered into conversation with Livingston, who began at once to tell him of Talleyrand's "extraordinary conduct." Marbois hinted that he knew something of the matter, and that Livingston had better come to his house as soon as the dinner company departed. The moment Monroe took leave, Livingston acted on Marbois's hint, and in a midnight conversation the bargain was practically made. Marbois told a story, largely of his own invention, in regard to the First Consul's conduct on Easter Sunday, three days before. Bonaparte mentioned fifty million francs as his price for Louisiana; but as Marbois reported the offer to Livingston, Bonaparte said: "Well! you have charge of the Treasury. Let them give you one hundred millions of francs, and pay their own claims, and take the whole country." The American claims were estimated at about twenty-five millions, and therefore Marbois's price amounted to at least one hundred and twenty-five million francs.

<sup>1</sup> Livingston to Madison, April 13, 1803; State Papers, ii. 552, 544.

Yet twenty-four or twenty-five million dollars for the whole west bank of the Mississippi, from the Lake of the Woods to the Gulf of Mexico, and indefinitely westward, was not an extortionate price, especially since New Orleans was thrown into the bargain, and indirect political advantages which could not be valued at less than the cost of a war, whatever it might be. Five million dollars were to be paid in America to American citizens, so that less than twenty millions would come to France. Livingston could hardly have been blamed for closing with Marbois on the spot, especially as his instructions warranted him in offering ten millions for New Orleans and the Floridas alone; but Livingston still professed that he did not want the west bank. "I told him that the United States were anxious to preserve peace with France; that for that reason they wished to remove them to the west side of the Mississippi; that we would be perfectly satisfied with New Orleans and the Floridas, and had no disposition to extend across the river; that of course we would not give any great sum for the purchase. . . . He then pressed me to name the sum." After a little more fencing, Marbois dropped at once from one hundred millions to sixty, with estimated claims to the amount of twenty millions more. "I told him that it was vain to ask anything that was so greatly beyond our means; that true policy would dictate to the First Consul not to press such a demand; that he must know it would render the present government un-

popular." The conversation closed by Livingston's departure at midnight with a final protest: "I told him that I would consult Mr. Monroe, but that neither he nor I could accede to his ideas on the subject." Then he went home; and sitting down to his desk wrote a long despatch to Madison, to record that without Monroe's help he had won Louisiana. The letter closed with some reflections: —

"As to the quantum, I have yet made up no opinion. The field open to us is infinitely larger than our instructions contemplated, the revenue increasing, and the land more than adequate to sink the capital, should we even go the sum proposed by Marbois, — nay, I persuade myself that the whole sum may be raised by the sale of the territory west of the Mississippi, with the right of sovereignty, to some Power in Europe whose vicinity we should not fear. I speak now without reflection and without having seen Mr. Monroe, as it was midnight when I left the Treasury Office, and it is now near three o'clock. It is so very important that you should be apprised that a negotiation is actually opened, even before Mr. Monroe has been presented, in order to calm the tumult which the news of war will renew, that I have lost no time in communicating it. We shall do all we can to cheapen the purchase; but my present sentiment is that we shall buy."

A week was next passed in haggling over the price.<sup>1</sup> Livingston did his utmost to beat Marbois down, but without success. Meanwhile he ran some risk of

<sup>1</sup> Livingston to Madison, April 17, 1803; State Papers, ii. 554.

losing everything ; for when Bonaparte offered a favor suitors did well to waste no time in acceptance. A slight weight might have turned the scale ; a divulgence of the secret, a protest from Spain, a moment of irritation at Jefferson's coquetry with England or at the vaporings of the American press, a sudden perception of the disgust which every true Frenchman was sure sooner or later to feel at this squandering of French territory and enterprise,—any remonstrance that should stir the First Consul's pride or startle his fear of posterity, might have cut short the thread of negotiation. Livingston did not know the secrets of the Tuileries, or he would not have passed time in cheapening the price of his purchase. The voice of opposition was silenced in the French people, but was still so high in Bonaparte's family as to make the Louisiana scheme an occasion for scenes so violent as to sound like the prelude to a tragedy.

One evening when Talma was to appear in a new *rôle*, Lucien Bonaparte, coming home to dress for the theatre, found his brother Joseph waiting for him.<sup>1</sup> “Here you are at last!” cried Joseph ; “I was afraid you might not come. This is no time for theatre-going ; I have news for you that will give you no fancy for amusement. The General wants to sell Louisiana.”

Lucien, proud of having made the treaty which secured the retrocession, was for a moment thunder-struck ; then recovering confidence, he said, “Come,

<sup>1</sup> Lucien Bonaparte et ses Mémoires, Th. Jung, ii. 121–192.



now! if he were capable of wishing it, the Chambers would never consent."

"So he means to do without their consent," replied Joseph. "This is what he answered me, when I said to him, like you, that the Chambers would not consent. What is more, he added that this sale would supply him the first funds for the war. Do you know that I am beginning to think he is much too fond of war?"

History is not often able to penetrate the private lives of famous men, and catch their words as they were uttered. Although Lucien Bonaparte's veracity was not greatly superior to that of his brother Napoleon, his story agreed with the known facts. If his imagination here and there filled in the gaps of memory, — if he was embittered and angry when he wrote, and hated his brother Napoleon with Corsican passion, these circumstances did not discredit his story, for he would certainly have told the truth against his brother under no other conditions. The story was not libellous, but Napoleonic; it told nothing new of the First Consul's character, but it was honorable to Joseph, who proposed to Lucien that they should go together and prevent their brother from committing a fault which would rouse the indignation of France, and endanger his own safety as well as theirs.

The next morning Lucien went to the Tuileries; by his brother's order he was admitted, and found Napoleon in his bath, the water of which was opaque with mixture of *eau de Cologne*. They talked for

some time on indifferent matters. Lucien was timid, and dared not speak until Joseph came. Then Napoleon announced his decision to sell Louisiana, and invited Lucien to say what he thought of it.

“I flatter myself,” replied Lucien, “that the Chambers will not give their consent.”

“You flatter yourself!” repeated Napoleon in a tone of surprise; then murmuring in a lower voice, “that is precious, in truth!” (*c’est précieux, en vérité!*)

“And I too flatter myself, as I have already told the First Consul,” cried Joseph.

“And what did I answer?” said Napoleon warmly, glaring from his bath at the two men.

“That you would do without the Chambers.”

“Precisely! That is what I have taken the great liberty to tell Mr. Joseph, and what I now repeat to the Citizen Lucien,—begging him at the same time to give me his opinion about it, without taking into consideration his paternal tenderness for his diplomatic conquest.” Then, not satisfied with irony, he continued in a tone of exasperating contempt: “And now, gentlemen, think of it what you will; but both of you go into mourning about this affair,—you, Lucien, for the sale itself; you, Joseph, because I shall do without the consent of any one whomsoever. Do you understand?”

At this Joseph came close to the bath, and rejoined in a vehement tone: “And you will do well, my dear brother, not to expose your project to parliamentary

discussion; for I declare to you that if necessary I will put myself first at the head of the opposition which will not fail to be made against you."

The First Consul burst into a peal of forced laughter, while Joseph, crimson with anger and almost stammering his words, went on: "Laugh, laugh, laugh, then! I will act up to my promise; and though I am not fond of mounting the tribune, this time you will see me there!"

Napoleon, half rising from the bath, rejoined in a serious tone: "You will have no need to lead the opposition, for I repeat that there will be no debate, for the reason that the project which has not the fortune to meet your approval, conceived by me, negotiated by me, shall be ratified and executed by me alone, do you comprehend?—by me, who laugh at your opposition!"

Hereupon Joseph wholly lost his self-control, and with flashing eyes shouted: "Good! I tell you, General, that you, I, and all of us, if you do what you threaten, may prepare ourselves soon to go and join the poor innocent devils whom you so legally, humanely, and especially with such justice, have transported to Sinnamary."

At this terrible rejoinder Napoleon half started up, crying out: "You are insolent! I ought—" then threw himself violently back in the bath with a force which sent a mass of perfumed water into Joseph's flushed face, drenching him and Lucien, who had the wit to quote, in a theatrical tone, the words

which Virgil put into the mouth of Neptune reproving the waves,—

“*Quos ego . . .*”

Between the water and the wit the three Bonapartes recovered their tempers, while the valet who was present, overcome by fear, fainted and fell on the floor. Joseph went home to change his clothes, while Lucien remained to pass through another scene almost equally amusing. A long conversation followed after the First Consul's toilet was finished. Napoleon spoke of St. Domingo. “Do you want me to tell you the truth?” said he. “I am to-day more sorry than I like to confess for the expedition to St. Domingo. Our national glory will never come from our marine.” He justified what he called, in jest at Lucien, his “Louisianicide,” by the same reasons he gave to Marbois and Talleyrand, but especially by the necessity of providing funds for the war not yet declared. Lucien combated his arguments as Joseph had done, until at last he reached the same point. “If, like Joseph, I thought that this alienation of Louisiana without the assent of the Chambers might be fatal to me,—to me alone,—I would consent to run all risks in order to prove the devotion you doubt; but it is really too unconstitutional and—”

“Ah, indeed!” burst out Napoleon with another prolonged, forced laugh of derisive anger. “You lay it on handsomely! Unconstitutional is droll from you. Come now, let me alone! How have I hurt your Constitution? Answer!”

Lucien replied that the intent to alienate any portion whatever of territory belonging to the Republic without the consent of the Chambers was an unconstitutional project. "In a word, the Constitution —"

"Go about your business!" broke in the guardian of the Constitution and of the national territory. Then he quickly and vehemently went on: "Constitution! unconstitutional! republic! national sovereignty! — big words! great phrases! Do you think yourself still in the club of St. Maximin? We are no longer there, mind that! Ah, it becomes you well, Sir Knight of the Constitution, to talk so to me! You had not the same respect for the Chambers on the 18th Brumaire!"

Nothing exasperated Lucien more than any allusion to the part he took in the *coup d'état* of the 18th Brumaire, when he betrayed the Chamber over which he presided. He commanded himself for the moment; but when Napoleon went on to say with still more contempt, "I laugh at you and your national representation," Lucien answered coldly, "I do not laugh at you, Citizen Consul, but I know well what I think about it."

"*Parbleu!*" said Napoleon, "I am curious to know what you think of me: say it, quick!"

"I think, Citizen Consul, that having given your oath to the Constitution of the 18th Brumaire into my own hands as President of the Council of Five Hundred, seeing you despise it thus, if I were not your brother I would be your enemy."

“My enemy! ah, I would advise you! My enemy! That is a trifle strong!” cried Napoleon, advancing as though to strike his younger brother. “You my enemy! I would break you, look, like this box!” And so saying he flung his snuff-box violently on the floor.

In these angry scenes both parties knew that Napoleon’s bravado was not altogether honest. For once, Lucien was in earnest; and had his brother left a few other men in France as determined as he and his friend Bernadotte, the First Consul would have defied public opinion less boldly. Joseph, too, although less obstinate than his brothers, was not easily managed. According to Lucien there were further scenes between them, at one of which Joseph burst into such violence that the First Consul took refuge in Josephine’s room. These stories contained nothing incredible. The sale of Louisiana was the turning-point in Napoleon’s career; no true Frenchman forgave it. A second betrayal of France, it announced to his fellow conspirators that henceforward he alone was to profit by the treason of the 18th Brumaire.

Livingston and Monroe knew nothing of all this; they even depended upon Joseph to help their negotiation. Monroe fell ill and could not act. Over the negotiation of the treaty has always hung a cloud of mystery such as belonged to no other measure of equal importance in American history. No official report showed that the commissioners ever met in formal conference; no protocol of their proceedings, no ac-



count of their discussions, no date when their agreement was made, was left on record. Both the treaty itself and the avowals of Livingston gave evidence that at the end all parties acted in haste. If it were not for a private memorandum by Monroe, — not sent to the Government, but preserved among his private papers, — the course of negotiation could not be followed.

A fortnight passed after Monroe's arrival without advancing matters a step. This period of inaction seems to have been broken by the First Consul. April 23 he drew up a "*Projet* of a Secret Convention,"<sup>1</sup> which he gave to Marbois and which set forth that to prevent misunderstandings about the matters of discussion mentioned in Articles II. and V. of the Morfontaine treaty, and also to strengthen friendly relations, the French republic was to cede its rights over Louisiana; and "in consequence of the said cession, Louisiana, its territory, and its proper dependencies shall become part of the American Union, and shall form successively one or more States on the terms of the Federal Constitution;" in return the United States were to favor French commerce in Louisiana, and give it all the rights of American commerce, with perpetual *entrepôts* at six points on the Mississippi, and a corresponding perpetual right of navigation; further, they were to assume all debts due to American citizens under the treaty of Morfontaine; and, finally, were to pay a hundred million

<sup>1</sup> Correspondance, viii. 289.

francs to France. With this *projet* Marbois went by appointment, at two o'clock, April 27, to Monroe's lodgings, where the three gentlemen had an informal meeting, of which no other record is known to exist than Monroe's memoranda.<sup>1</sup> Monroe himself was too unwell to sit at the table, and reclined on a sofa throughout the discussion. Marbois produced Bonaparte's *projet*, and after admitting that it was hard and unreasonable, presented a substitute of his own which he thought the First Consul would accept.

Livingston tried to give precedence to the claims; he wanted to dispose of them first, in case the cession should fail; but after pressing the point as far as he could, he was overruled by Monroe, and Livingston took Marbois's project for consideration. The two American commissioners passed a day in working over it. Livingston drafted a claims convention, and it was drawn, as he thought, "with particular attention."<sup>2</sup> Monroe thought differently. "My colleague took Mr. Marbois's project with him, and brought me one, very loosely drawn, founded on it."<sup>3</sup> Monroe made a draft of his own which was certainly not creditable to his legal or diplomatic skill, and which began by adopting an oversight contained in Bonaparte's draft, according to which the cancelled Article

<sup>1</sup> Monroe's Memoranda, Monroe MSS., State Department Archives.

<sup>2</sup> Livingston to Madison, May 3, 1804; MSS. State Department Archives.

<sup>3</sup> Monroe's Memoranda, Monroe MSS., State Department Archives.

II. of the treaty of Morfontaine was made a foundation of the new convention.<sup>1</sup> “We called on Mr. Marbois the 29th, and gave him our project, which was read to him and discussed. We proposed to offer fifty millions to France, and twenty millions on account of her debt to the citizens of the United States, making seventy in the whole.” Marbois replied that he would proceed only on the condition that eighty millions were accepted as the price. Then at last the American commissioners gave way; and with this change Marbois took their *projet* for reference to the First Consul the next morning.

The 30th of April was taken by Marbois for consultation with the First Consul. May 1 Monroe was presented at the Tuileries, and dined there with Livingston; but Bonaparte said nothing of their business, except that it should be settled. The same evening the two envoys had a final discussion with Marbois. “May 2, we actually signed the treaty and convention for the sixty million francs to France, in the French language; but our copies in English not being made out, we could not sign in our language. They were however prepared, and signed in two or three days afterward. The convention respecting American claims took more time, and was not signed till about the 8th or 9th.” All these documents were antedated to the 30th April.<sup>2</sup>

<sup>1</sup> Draft of Convention in Monroe's writing, Monroe MSS., State Department Archives.

<sup>2</sup> State Papers, ii. 507-509.

The first object of remark in this treaty was the absence of any attempt to define the property thus bought and sold. "Louisiana with the same extent that is now in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States," — these words, taken from Berthier's original treaty of retrocession, were convenient for France and Spain, whose governments might be supposed to know their own boundaries; but all that the United States government knew upon the subject was that Louisiana, as France possessed it, had included a part of Florida and the whole Ohio Valley as far as the Alleghany Mountains and Lake Erie. The American commissioners at first insisted upon defining the boundaries, and Marbois went to the First Consul with their request. He refused.<sup>1</sup> "If an obscurity did not already exist, it would perhaps be good policy to put one there." He intentionally concealed the boundary he had himself defined, a knowledge of which would have prevented a long and mortifying dispute. Livingston went to Talleyrand for the orders given by Spain to the Marquis of Somoruelo, by France to Victor and Laussat. "What are the eastern bounds of Louisiana?" asked Livingston. "I do not know," replied Talleyrand; "you must take it as we received it." "But what did you mean to take?" urged Livingston. "I do not know," repeated Talleyrand. "Then you mean

<sup>1</sup> Marbois, Louisiana, pp. 283, 286.

that we shall construe it our own way?" "I can give you no direction. You have made a noble bargain for yourselves, and I suppose you will make the most of it," was the final reply of Talleyrand. Had Livingston known that Victor's instructions, which began by fixing the boundaries in question, were still in Talleyrand's desk, the answer would have been the same.

One point alone was fixed,—the Floridas were not included in the sale; this was conceded on both sides. In his first conversation with Marbois, Livingston made a condition that France should aid him in procuring these territories from Spain.<sup>1</sup> "I asked him, in case of purchase, whether they would stipulate that France would never possess the Floridas, and that she would aid us to procure them, and relinquish all right that she might have to them. He told me that she would go thus far." Several days later, Marbois repeated this assurance to Monroe, saying that the First Consul authorized him, besides offering Louisiana, "to engage his support of our claim to the Floridas with Spain."<sup>2</sup> Yet when the American commissioners tried to insert this pledge into the treaty, they failed. Bonaparte would give nothing but a verbal promise to use his good offices with Spain.

Besides the failure to dispose of these two points, which were in reality but one, the treaty contained a

<sup>1</sup> Livingston to Madison, April 13, 1803; State Papers, ii. 552.

<sup>2</sup> Monroe to Madison, April 19, 1803; State Department Archives.

positive provision, Article III., taken from Bonaparte's *projet*, with slight alteration, that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." On republican principles of the Virginian school, only the States themselves could by a new grant of power authorize such an incorporation. Article III. violated Madison's instructions, which forbade the promise.<sup>1</sup> "To incorporate the inhabitants of the hereby-ceded territory with the citizens of the United States," said these instructions, "being a provision which cannot now be made, it is to be expected, from the character and policy of the United States, that such incorporation will take place without unnecessary delay." The provision, which Madison said could not be made, was nevertheless made by Livingston and Monroe.

Embarrassing as these omissions or provisions were, they proved not so much that the treaty was carelessly drawn, as that the American negotiators were ready to stipulate whatever was needed for their purpose. Other portions of the treaty were not to be defended on that excuse. The price stipulated for Louisiana was sixty million francs, in the form of United States six-per-cent bonds, representing a capital of \$11,250,000.

<sup>1</sup> Madison to Livingston and Monroe, March 2, 1803; State Papers, ii. 540.



Besides this sum of eleven and a quarter million dollars, the United States government was to assume and pay the debts due by France to American citizens, estimated at twenty million francs, or, at the same rate of exchange, \$3,750,000, — making fifteen million dollars in all as the price to be paid. Livingston himself drew the claims convention with what he supposed to be particular attention; but it was modified by Monroe, and still further altered by Marbois. “The moment was critical; the question of peace or war was in the balance; and it was important to come to a conclusion before either scale preponderated. I considered the convention as a trifle compared with the other great object,” avowed Livingston; “and as it had already delayed us many days, I was ready to take it under any form.”<sup>1</sup> The claims convention was not signed till nearly a week after the signature of the treaty of cession. The form in which Livingston took it showed that neither he nor Monroe could have given careful attention to the subject; for not only did the preamble declare that the parties were acting in compliance with Article II. of the treaty of Morfontaine, — an Article which had been formally struck out by the Senate, cancelled by Bonaparte, and the omission ratified by the Senate and President since Livingston’s residence at Paris; not only did the claims specified fail to embrace all the cases provided for by the treaty of 1800, which

<sup>1</sup> Livingston to Madison, May 3, 1804; *View of the Claims, etc.*, by a Citizen of Baltimore, p. 75.

this convention was framed to execute ; not only were the specifications arbitrary, and even self-contradictory,—but the estimate of twenty million francs was far below the amount of the claims admitted in principle ; no rule of apportionment was provided, and, worst of all, the right of final decision in every case was reserved to the French government. The meaning of this last provision might be guessed from the notorious corruption of Talleyrand and his band of confidential or secret agents.

Doubtless Livingston was right in securing his main object at any cost ; but could he have given more time to his claims convention, he would perhaps have saved his own reputation and that of his successor from much stain, although he might have gained no more than he did for his Government. In the two conventions of 1800 and 1803 the United States obtained two objects of the utmost value,—by the first, a release from treaty obligations which, if carried out, required war with England ; by the second, the whole west bank of the Mississippi River and the island of New Orleans, with all the incidental advantages attached. In return for these gains the United States government promised not to press the claims of its citizens against the French government beyond the amount of three million seven hundred and fifty thousand dollars, which was one fourth part of the price paid for Louisiana. The legitimate claims of American citizens against France amounted to many million dollars ; in the result, certain favored

claimants received three million seven hundred and fifty thousand dollars less their expenses, which reduced the sum about one half.

The impression of diplomatic oversight was deepened by the scandals which grew out of the distribution of the three million seven hundred and fifty thousand dollars which the favored claimants were to receive. Livingston's diplomatic career was poisoned by quarrels over this money.<sup>1</sup> That the French government acted with little concealment of venality was no matter of surprise ; but that Livingston should be officially charged by his own associates with favoritism and corruption,—“imbecility of mind and a childish vanity, mixed with a considerable portion of duplicity,”—injured the credit of his Government ; and the matter was not bettered when he threw back similar charges on the Board of Commissioners, or when at last General Armstrong, coming to succeed him, was discredited by similar suspicions. Considering how small was the amount of money distributed, the scandal and corruption surpassed any other experience of the national government.

Livingston's troubles did not end there. He could afford to suffer some deduction from his triumph ; for he had achieved the greatest diplomatic success recorded in American history. Neither Franklin, Jay, Gallatin, nor any other American diplomatist was so fortunate as Livingston for the immensity of his results compared with the paucity of his means. Other

<sup>1</sup> View of the Claims, etc., by a Citizen of Baltimore. 1829.

treaties of immense consequence have been signed by American representatives,—the treaty of alliance with France; the treaty of peace with England which recognized independence: the treaty of Ghent; the treaty which ceded Florida; the Ashburton treaty; the treaty of Guadalupe Hidalgo,—but in none of these did the United States government get so much for so little. The annexation of Louisiana was an event so portentous as to defy measurement; it gave a new face to politics, and ranked in historical importance next to the Declaration of Independence and the adoption of the Constitution,—events of which it was the logical outcome; but as a matter of diplomacy it was unparalleled, because it cost almost nothing.

The scandalous failure of the claims convention was a trifling drawback to the enjoyment of this unique success; but the success was further embittered by the conviction that America would give the honor to Monroe. Virginia was all-powerful. Livingston was unpopular, distrusted, not liked even by Madison; while Monroe, for political reasons, had been made a prominent figure. Public attention had been artificially drawn upon his mission; and in consequence, Monroe's name grew great, so as almost to overshadow that of Madison, while Livingston heard few voices proclaiming his services to the country. In a few weeks Livingston began to see his laurels wither, and was forced to claim the credit that he thought his due. Monroe treated him less

generously than he might have done, considering that Monroe gained the political profit of the success.<sup>1</sup> Acknowledging that his own share was next to nothing in the negotiation, he still encouraged the idea that Livingston's influence had been equally null. This view was doubtless correct, but if universally applied in history, would deprive many great men of their laurels. Monroe's criticism helped only to diminish the political chances of a possible rival who had no Virginia behind him to press his preferment and cover his mistakes.

<sup>1</sup> Livingston to Madison, Nov. 15, 1803; State Papers, ii. 573. Diary of John Quincy Adams, v. 433. Memoir of James Monroe, 1828.

### CHAPTER III.

WHEN Marbois took the treaty to the First Consul, Bonaparte listened to its provisions with lively interest; and on hearing that twenty millions were to be employed in paying claims, — a use of money which he much disliked, — he broke out: “Who authorized you to dispose of the money of the State? I want to have these twenty millions paid into the Treasury. The claimants’ rights cannot come before our own.”<sup>1</sup> His own *projet* had required the Americans to assume these claims, — which was, in fact, the better plan. Marbois’s alteration turned the claims into a French job. Perhaps Bonaparte was not averse to this; for when Marbois reminded him that he had himself fixed the price at fifty millions, whereas the treaty gave him sixty, and settled the claims besides, — “It is true,” he said; “the negotiation leaves me nothing to wish. Sixty millions for an occupation that will not perhaps last a day! I want France to have the good of this unexpected capital, and to employ it in works of use to her marine.” On the spot he dictated a decree for the construction of five canals. This excellent use of the money seemed

<sup>1</sup> Marbois’s *Louisiana*, pp. 311, 312.



inconsistent with Lucien's remark that it was wanted for war, — but the canals were never built or begun; and the sixty millions were spent, to the last centime, in preparations for an impracticable descent on England.

Yet money was not the inducement which caused Bonaparte to sell Louisiana to the United States. The Prince of Peace would at any time have given more money, and would perhaps have been willing, as he certainly was able, to pay it from his private means rather than allow the United States to own Louisiana. In other respects, the sale needed explanation, since it contradicted the First Consul's political theories and prejudices. He had but two rooted hatreds. The deeper and fiercer of these was directed against the republic, — the organized democracy, and what he called ideology, which Americans knew in practice as Jeffersonian theories; the second and steadier was his hatred of England as the chief barrier to his military omnipotence. The cession of Louisiana to the United States contradicted both these passions, making the ideologists supreme in the New World, and necessarily tending in the end to strengthen England in the Old. Bonaparte had been taught by Talleyrand that America and England, whatever might be their mutual jealousies, hatreds, or wars, were socially and economically one and indivisible. Barely ten years after the Revolutionary War had closed, and at a time when the wounds it made were still raw, Talleyrand remarked: "In every part of

America through which I have travelled, I have not found a single Englishman who did not feel himself to be an American ; not a single Frenchman who did not find himself a stranger." Bonaparte knew that England held the monopoly of American trade, and that America held the monopoly of democratic principles ; yet he did an act which was certain to extend British trade and fortify democratic principles.

This contradiction was due to no change in Bonaparte's opinions ; these remained what they were. At the moment when talking to Marbois about " those republicans whose friendship I seek," he was calculating on the chance that his gift would one day prove their ruin. " Perhaps it will also be objected to me," he said,<sup>1</sup> " that the Americans may in two or three centuries be found too powerful for Europe ; but my foresight does not embrace such remote fears. Besides, we may hereafter expect rivalries among the members of the Union. The confederations that are called perpetual last only till one of the contracting parties finds it to its interest to break them. . . . It is to prevent the danger to which the colossal power of England exposes us that I would provide a remedy." The colossal power of England depended on her navy, her colonies, and her manufactures. Bonaparte proposed to overthrow it by shattering beyond repair the colonial system of France and Spain ; and even this step was reasonable compared with what followed. He expected to check the power of England by giving

<sup>1</sup> Marbois's Louisiana, p. 276.

Louisiana to the United States,—a measure which opened a new world to English commerce and manufactures, and riveted England's grasp on the whole American continent, inviting her to do what she afterward did,—join hands with the United States in revolutionizing Mexico and South America in her own interests. As though to render these results certain, after extending this invitation to English commerce and American democracy, Bonaparte next invited a war with England, which was certain to drive from the ocean every ship belonging to France or Spain,—a war which left even the United States at England's mercy.

Every detail that could explain Bonaparte's motives becomes interesting in a matter so important to American history. Certain points were clear. Talleyrand's colonial and peace policy failed. Resting on the maintenance of order in Europe and the extension of French power in rivalry with the United States and England in America, it was a statesmanlike and honorable scheme, which claimed for the Latin races what Louis XIV. tried to gain for them; but it had the disadvantage of rousing hostility in the United States, and of throwing them into the arms of England. For this result Talleyrand was prepared. He knew that he could keep peace with England, and that the United States alone could not prevent him from carrying out his policy. Indeed, Madison in his conversation with Pichon invited such action, and Jefferson had no means of resisting it; but from

the moment when St. Domingo prevented the success of the scheme, and Bonaparte gained an excuse for following his own military instincts, the hostility of the United States became troublesome. President Jefferson had chiefly reckoned on this possibility as his hope of getting Louisiana; and slight as the chance seemed, he was right.

This was, in effect, the explanation which Talleyrand officially wrote to his colleague Decrès, communicating a copy of the treaty, and requesting him to take the necessary measures for executing it.<sup>1</sup>

“The wish to spare the North American continent the war with which it was threatened, to dispose of different points in dispute between France and the United States of America, and to remove all the new causes of misunderstanding which competition and neighborhood might have produced between them; the position of the French colonies; their want of men, cultivation, and assistance; in fine, the empire of circumstances, foresight of the future, and the intention to compensate by an advantageous arrangement for the inevitable loss of a country which war was going to put at the mercy of another nation,—all these motives have determined the Government to pass to the United States the rights it had acquired from Spain over the sovereignty and property of Louisiana.”

Talleyrand's words were always happily chosen, whether to reveal or to conceal his thoughts. This display of reasons for an act which he probably preferred to condemn, might explain some of the

<sup>1</sup> Talleyrand to Decrès, 4 Prairial, An xi. (May 24, 1803); Archives des Aff. Étr., MSS.

First Consul's motives in ceding Louisiana to the United States; but it only confused another more perplexing question. Louisiana did not belong to France, but to Spain. The retrocession had never been completed; the territory was still possessed, garrisoned, and administered by Don Carlos IV.; until actual delivery was made, Spain might yet require that the conditions of retrocession should be rigorously performed. Her right in the present instance was complete, because she held as one of the conditions precedent to the retrocession a solemn pledge from the First Consul never to alienate Louisiana. The sale of Louisiana to the United States was trebly invalid: if it were French property, Bonaparte could not constitutionally alienate it without the consent of the Chambers; if it were Spanish property, he could not alienate it at all; if Spain had a right of reclamation, his sale was worthless. In spite of all these objections the alienation took place; and the motives which led the First Consul to conciliate America by violating the Constitution of France were perhaps as simple as he represented them to be; but no one explained what motives led Bonaparte to break his word of honor and betray the monarchy of Spain.

Bonaparte's evident inclination toward a new war with England greatly distressed King Charles IV. Treaty stipulations bound Spain either to take part with France in the war, or to pay a heavy annual subsidy; and Spain was so weak that either alternative seemed fatal. The Prince of Peace would have

liked to join England or Austria in a coalition against Bonaparte; but he knew that to this last desperate measure King Charles would never assent until Bonaparte's hand was actually on his crown; for no one could reasonably doubt that within a year after Spain should declare an unsuccessful war on France, the whole picturesque Spanish court—not only Don Carlos IV. himself and Queen Luisa, but also the Prince of Peace, Don Pedro Cevallos, the Infant Don Ferdinand, and the train of courtiers who thronged La Granja and the Escorial—would be wandering in exile or wearing out their lives in captivity. To increase the complication, the young King of Etruria died May 27, 1803, leaving an infant seated upon the frail throne which was sure soon to disappear at the bidding of some military order countersigned by Berthier.

In the midst of such anxieties, Godoy heard a public rumor that Bonaparte had sold Louisiana to the United States; and he felt it as the death-knell of the Spanish empire. Between the energy of the American democracy and the violence of Napoleon whom no oath bound, Spain could hope for no escape. From New Orleans to Vera Cruz was but a step; from Bayonne to Cadiz a winter campaign of some five or six hundred miles. Yet Godoy would probably have risked everything, and would have thrown Spain into England's hands, had he been able to control the King and Queen, over whom Bonaparte exercised the influence of a master. On learn-



ing the sale of Louisiana, the Spanish government used language almost equivalent to a rupture with France. The Spanish minister at Paris was ordered to remonstrate in the strongest terms against the step which the First Consul had taken behind the back of the King his ally.<sup>1</sup>

“This alienation,” wrote the Chevalier d’Azara to Talleyrand, “not only deranges from top to bottom the whole colonial system of Spain, and even of Europe, but is directly opposed to the compacts and formal stipulations agreed upon between France and Spain, and to the terms of the cession in the treaty of Tuscany; and the King my master brought himself to give up the colony only on condition that it should at no time, under no pretext, and in no manner, be alienated or ceded to any other Power.”

Then, after reciting the words of Gouvion St.-Cyr’s pledge, the note continued:—

“It is impossible to conceive more frankness or loyalty than the King has put into his conduct toward France throughout this affair. His Majesty had therefore the right to expect as much on the part of his ally, but unhappily finds himself deceived in his hopes by the sale of the said colony. Yet trusting always in the straightforwardness and justice of the First Consul, he has ordered me to make this representation, and to protest against the alienation, hoping that it will be revoked, as manifestly contrary to the treaties and to the most solemn anterior promises.”

<sup>1</sup> D’Azara to Talleyrand, June 6, 1803; Archives des Aff. Étr., MSS.

Not stopping there, the note also insisted that Tuscany should be evacuated by the French troops, who were not needed, and had become an intolerable burden, so that the country was reduced to the utmost misery. Next, King Charles demanded that Parma and Piacenza should be surrendered to the King of Etruria, to whom they belonged as the heir of the late Duke of Parma. Finally, the note closed with a complaint even more grave in substance than any of the rest:—

“The King my master could have wished also a little more friendly frankness in communicating the negotiations with England, and especially in regard to the dispositions of the Northern courts, guarantors of the treaty of Amiens; but as this affair belongs to negotiations of another kind, the undersigned abstains for the moment from entering into them, reserving the right to do so on a better occasion.”

Beurnonville, the French minister at Madrid, tried to soothe or silence the complaints of Cevallos; but found himself only silenced in return. The views of the Spanish secretary were energetic, precise, and not to be met by argument.<sup>1</sup> “I have not been able to bring M. Cevallos to any moderate, conciliatory, or even calm expression,” wrote Beurnonville to Talleyrand; “he has persistently shown himself inaccessible to all persuasion.” The Prince of Peace was no more manageable than Cevallos: “While substituting

<sup>1</sup> Beurnonville to Talleyrand, 24 Prairial, An xi. (June 13, 1803); Archives des Aff. Étr., MSS.

a soft and pliant tone for the sharpest expressions, and presenting under the appearance of regret what had been advanced to me with the bitterness of reproach, the difference between the Prince's conduct and that of M. Cevallos is one only in words." Both of them said, what was quite true, that the United States would not have objected to the continued possession of Louisiana by Spain, and that France had greatly exaggerated the dispute about the *entrepôt*.

"The whole matter reduces itself to a blunder (*gaucherie*) of the Intendant," said Cevallos; "it has been finally explained to Mr. Jefferson, and friendship is restored. On both sides there has been irritation, but not a shadow of aggression; and from the moment of coming to an understanding, both parties see that they are at bottom of one mind, and mutually very well disposed toward each other. Moreover, it is quite gratuitous to assume that Louisiana is so easy to take in the event of a war, either by the Americans or by the English. The first have only militia, — very considerable, it is true, but few troops of the line; while Louisiana, at least for the moment, has ten thousand militia-men, and a body of three thousand five hundred regular troops. As for the English, they cannot seriously have views on a province which is impregnable to them; and all things considered, it would be no great calamity if they should take it. The United States, having a much firmer hold on the American continent, should they take a new enlargement, would end by becoming formidable, and would one day disturb the Spanish possessions. As for the debts due to Americans, Spain has still more claim to an arrangement of that kind; and in any case the King, as Bona-

parte must know, would have gladly discharged all the debts contracted by France, and perhaps even a large instalment of the American claim, in order to recover an old domain of the crown. Finally, the intention which led the King to give his consent to the exchange of Louisiana was completely deceived. This intention had been to interpose a strong dyke between the Spanish colonies and the American possessions; now, on the contrary, the doors of Mexico are to stay open to them."

To these allegations, which Beurnonville called "insincere, weak, and ill-timed," Cevallos added a piece of evidence which, strangely enough, was altogether new to the French minister, and reduced him to confusion: it was Gouvion St.-Cyr's letter, pledging the First Consul never to alienate Louisiana.

When Beurnonville's despatch narrating these interviews reached Paris, it stung Bonaparte to the quick, and called from him one of the angry avowals with which he sometimes revealed a part of the motives that influenced his strange mind. Talleyrand wrote back to Beurnonville, June 22, a letter which bore the mark of the First Consul's hand.

"In one of my last letters," he began,<sup>1</sup> "I made known to you the motives which determined the Government to give up Louisiana to the United States. You will not conceal from the Court of Madrid that one of the causes which had most influence on this determination was discontent at learning that Spain, after having promised to sustain the measures taken by the Intendant of

<sup>1</sup> Talleyrand to Beurnonville, 3 Messidor, An xi. (June 22, 1803); Archives des Aff. Étr., MSS.

New Orleans, had nevertheless formally revoked them. These measures would have tended to free the capital of Louisiana from subjection to a right of deposit which was becoming a source of bickerings between the Louisianians and Americans. We should have afterward assigned to the United States, in conformity to their treaty with Spain, another place of deposit, less troublesome to the colony and less injurious to its commerce ; but Spain put to flight all these hopes by confirming the privileges of the Americans at New Orleans, — thus granting them definitively local advantages which had been at first only temporary. The French government, which had reason to count on the contrary assurance given in this regard by that of Spain, had a right to feel surprise at this determination ; and seeing no way of reconciling it with the commercial advantages of the colony and with a long peace between the colony and its neighbors, took the only course which actual circumstances and wise prevision could suggest.”

These assertions contained no more truth than those which Cevallos had answered. Spain had not promised to sustain the Intendant, nor had she revoked the Intendant's measures after, but before, the imagined promise ; she had not confirmed the American privileges at New Orleans, but had expressly reserved them for future treatment. On the other hand, the restoration of the deposit was not only reconcilable with peace between Louisiana and the United States, but the whole world knew that the risk of war rose from the threat of disturbing the right of deposit. The idea that the colony had become less valuable on this account was new. France had

begged for the colony with its American privileges, and meaning to risk the chances of American hostility ; but if these privileges were the cause of selling the colony to the Americans, and if, as Talleyrand implied, France could and would have held Louisiana if the right of deposit at New Orleans had been abolished and the Americans restricted to some other spot on the river-bank, fear of England was not, as had been previously alleged, the cause of the sale. Finally, if the act of Spain made the colony worthless, why was Spain deprived of the chance to buy it back ?

The answer was evident. The reason why Bonaparte did not keep his word to Don Carlos IV. was that he looked on Spain as his own property, and on himself as representing her sovereignty. The reasons for which he refused to Spain the chance to redeem the colony, were probably far more complicated. The only obvious explanation, assuming that he still remembered his pledge, was a wish to punish Spain.

After all these questions were asked, one problem still remained. Bonaparte had reasons for not returning the colony to Spain ; he had reasons, too, for giving it to the United States, — but why did he alienate the territory from France ? Fear of England was not the true cause. He had not to learn how to reconquer Louisiana on the Danube and the Po. At one time or another Great Britain had captured nearly all the French colonies in the New World,



and had been forced not only to disgorge conquests, but to abandon possessions; until of the three great European Powers in America, England was weakest. Any attempt to regain old ascendancy by conquering Louisiana would have thrown the United States into the hands of France; and had Bonaparte anticipated such an act, he should have helped it. That Great Britain should waste strength in conquering Louisiana in order to give it to the United States, was an idea not to be gravely argued. Jefferson might, indeed, be driven into an English alliance in order to take Louisiana by force from France or Spain; but this danger was slight in itself, and might have been removed by the simple measure of selling only the island of New Orleans, and by retaining the west bank, which Jefferson was ready to guarantee. This was the American plan; and the President offered for New Orleans alone about half the price he paid for all Louisiana.<sup>1</sup> Still, Bonaparte forced the west bank on Livingston. Every diplomatic object would have been gained by accepting Jefferson's *projet* of a treaty, and signing it without the change of a word. Spain would have been still in some degree protected; England would have been tempted to commit the mistake of conquering the retained territory, and thereby the United States would have been held in check; the United States would have gained all the stimulus their ambition could require for many years

<sup>1</sup> Madison to Livingston and Monroe, March 2, 1803; State Papers, ii. 543.

to come; and what was more important to Bonaparte, France could not justly say that he had illegally and ignobly sold national territory except for a sufficient and national object.

The real reasons which induced Bonaparte to alienate the territory from France remained hidden in the mysterious processes of his mind. Perhaps he could not himself have given the true explanation of his act. Anger with Spain and Godoy had a share in it, as he avowed through Talleyrand's letter of June 22; disgust for the sacrifices he had made, and impatience to begin his new campaigns on the Rhine, — possibly a wish to show Talleyrand that his policy could never be revived, and that he had no choice but to follow into Germany, — had still more to do with the act. Yet it is also reasonable to believe that the depths of his nature concealed a wish to hide forever the monument of a defeat. As he would have liked to blot Corsica, Egypt, and St. Domingo from the map, and wipe from human memory the record of his failures, he may have taken pleasure in flinging Louisiana far off, and burying it forever from the sight of France in the bosom of the only government which could absorb and conceal it.

For reasons of his own, which belonged rather to military and European than to American history, Bonaparte preferred to deal with Germany before crossing the Pyrenees; and he knew that meanwhile Spain could not escape. Godoy on his side could neither drag King Charles into a war with France,

nor could he provide the means of carrying on such a war with success. Where strong nations like Austria, Russia, and Prussia were forced to crouch before Bonaparte, and even England would have been glad to accept tolerable terms, Spain could not challenge attack. The violent anger that followed the sale of Louisiana and the rupture of the peace of Amiens soon subsided. Bonaparte, aware that he had outraged the rights of Spain, became moderate. Anxious to prevent her from committing any act of desperation, he did not require her to take part in the war, but even allowed her stipulated subsidies to run in arrears; and although he might not perhaps regret his sale of Louisiana to the United States, he felt that he had gone too far in shaking the colonial system. At the moment when Cevallos made his bitterest complaints, Bonaparte was least disposed to resent them by war. Both parties knew that so far as Louisiana was concerned, the act was done and could not be undone; that France was bound to carry out her pledge, or the United States would take possession of Louisiana without her aid. Bonaparte was willing to go far in the way of conciliation, if Spain would consent to withdraw her protest.

Of this the American negotiators knew little. Through such complications, of which Bonaparte alone understood the secret, the Americans moved more or less blindly, not knowing enemies from friends. The only public man who seemed ever to understand Napoleon's methods was Pozzo di Borgo,

whose ways of thought belonged to the island society in which both had grown to manhood; and Monroe was not skilled in the diplomacy of Pozzo, or even of Godoy. Throughout life, Monroe was greatly under the influence of other men. He came to Paris almost a stranger to its new society, for his only relations of friendship had been with the republicans, most of whom Bonaparte had sent to Cayenne. He found Livingston master of the situation, and wisely interfered in no way with what Livingston did. The treaty was no sooner signed than he showed his readiness to follow Livingston further, without regard to embarrassments which might result.

When Livingston set his name to the treaty of cession, May 2, 1803, he was aware of the immense importance of the act. He rose and shook hands with Monroe and Marbois. "We have lived long," said he; "but this is the noblest work of our lives." This was said by the man who in the Continental Congress had been a member of the committee appointed to draft the Declaration of Independence; and it was said to Monroe, who had been assured only three months before, by President Jefferson of the grandeur of his destinies in words he could hardly have forgotten:<sup>1</sup> "Some men are born for the public. Nature, by fitting them for the service of the human race on a broad scale, has stamped them with the evidences of her destination and their duty." Monroe was born for the public, and knew

<sup>1</sup> Jefferson to Monroe, Jan. 13, 1803; Works, iv. 455.

what destiny lay before him ; while in Livingston's mind New York had thenceforward a candidate for the Presidency whose claims were better than Monroe's. In the cup of triumph of which these two men then drank deep, was yet one drop of acid. They had been sent to buy the Floridas and New Orleans. They had bought New Orleans ; but instead of Florida, so much wanted by the Southern people, they had paid ten or twelve million dollars for the west bank of the Mississippi. The negotiators were annoyed to think that having been sent to buy the east bank of the Mississippi, they had bought the west bank instead ; that the Floridas were not a part of their purchase. Livingston especially felt the disappointment, and looked about him for some way to retrieve it.

Hardly was the treaty signed, when Livingston found what he sought. He discovered that France had actually bought West Florida without knowing it, and had sold it to the United States without being paid for it. This theory, which seemed at first sight preposterous, became a fixed idea in Livingston's mind. He knew that West Florida had not been included by Spain in the retrocession, but that on the contrary Charles IV. had repeatedly, obstinately, and almost publicly rejected Bonaparte's tempting bids for that province. Livingston's own argument for the cession of Louisiana had chiefly rested on this knowledge, and on the theory that without Mobile New Orleans was worthless. He recounted this

to Madison in the same letter which announced Talleyrand's offer to sell:<sup>1</sup>—

“I have used every exertion with the Spanish Ambassador and Lord Whitworth to prevent the transfer of the Floridas, . . . and unless they [the French] get Florida, I have convinced them that Louisiana is worth little.”

In the preceding year one of the French ministers had applied to Livingston “to know what we understand in America by Louisiana;” and Livingston's answer was on record in the State Department at Washington:<sup>2</sup> “Since the possession of the Floridas by Britain and the treaty of 1762, I think there can be no doubt as to the precise meaning of the terms.” He had himself drafted an article which he tried to insert in Marbois's *projet*, pledging the First Consul to interpose his good offices with the King of Spain to obtain the country east of the Mississippi. As late as May 12, Livingston wrote to Madison:<sup>3</sup> “I am satisfied that . . . if they [the French] could have concluded with Spain, we should also have had West Florida.” In his next letter, only a week afterward, he insisted that West Florida was his:<sup>4</sup>—

“Now, sir, the sum of this business is to recommend to you in the strongest terms, after having obtained the possession that the French commissary will give you, to

<sup>1</sup> Livingston to Madison, April 11, 1803; State Papers, ii. 552.

<sup>2</sup> Ibid., July 30, 1802; State Papers, ii. 519.

<sup>3</sup> Ibid., May 12, 1803; State Papers, ii. 557.

<sup>4</sup> Ibid., May 20, 1803; State Papers, ii. 561.



insist upon this as a part of your right, and to take possession at all events to the River Perdido. I pledge myself that your right is good."

The reasoning on which he rested this change of opinion was in substance the following: France had, in early days, owned nearly all the North American continent, and her province of Louisiana had then included Ohio and the watercourses between the Lakes and the Gulf, as well as West Florida, or a part of it. This possession lasted until the treaty of peace, Nov. 3, 1762, when France ceded to England not only Canada, but also Florida and all other possessions east of the Mississippi, except the Island of New Orleans. Then West Florida by treaty first received its modern boundary at the Iberville. On the same day France further ceded to Spain the Island of New Orleans and all Louisiana west of the Mississippi. Not a foot of the vast French possessions on the continent of North America remained in the hands of the King of France; they were divided between England and Spain.

The retrocession of 1800 was made on the understanding that it referred to this cession of 1762. The province of Louisiana which had been ceded was *retro*-ceded, with its treaty-boundary at the Iberville. Livingston knew that the understanding between France and Spain was complete; yet on examination he found that it had not been expressed in words so clearly but that these words could be made to bear a different meaning. Louisiana was retroceded, he

perceived, "with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be according to the treaties subsequently entered into between Spain and other States." When France possessed Louisiana it included Ohio and West Florida: no one could deny that West Florida was in the hands of Spain; therefore Bonaparte, in the absence of negative proof, might have claimed West Florida, if he had been acute enough to know his own rights, or willing to offend Spain,—and as all Bonaparte's rights were vested in the United States, President Jefferson was at liberty to avail himself of them.

The ingenuity of Livingston's idea was not to be disputed; and as a ground for a war of conquest it was as good as some of the claims which Bonaparte made the world respect. As a diplomatic weapon, backed as Napoleon would have backed it by a hundred thousand soldiers, it was as effective an instrument as though it had every attribute of morality and good faith; and all it wanted, as against Spain, was the approval of Bonaparte. Livingston hoped that after the proof of friendship which Bonaparte had already given in selling Louisiana to the United States, he might without insuperable difficulty be induced to grant this favor. Both Marbois and Talleyrand, under the First Consul's express orders, led him on. Marbois did not deny that Mobile might lie in Louisiana, and Talleyrand positively denied knowledge that Laussat's instructions contained a definition

of boundaries. Bonaparte stood behind both these agents, telling them that if an obscurity did not exist about the boundary they should make one. Talleyrand went so far as to encourage the pretensions which Livingston hinted: "You have made a noble bargain for yourselves," said he, "and I suppose you will make the most of it." This was said at the time when Bonaparte was still intent on punishing Spain.

Livingston found no difficulty in convincing Monroe that they had bought Florida as well as Louisiana.<sup>1</sup>

"We consider ourselves so strongly founded in this conclusion, that we are of opinion the United States should act on it in all the measures relative to Louisiana in the same manner as if West Florida was comprised within the Island of New Orleans, or lay to the west of the River Iberville."

Livingston expected that "a little force,"<sup>2</sup> as he expressed himself, might be necessary.

"After the explanations that have been given here, you need apprehend nothing from a decisive measure; your minister here and at Madrid can support your claim, and the time is peculiarly favorable to enable you to do it without the smallest risk at home. . . . The moment is so favorable for taking possession of that country that I hope it has not been neglected, even though a little force should be necessary to effect it. Your minister must find the means to justify it."

<sup>1</sup> Livingston and Monroe to Madison, June 7, 1803; State Papers, ii. 563-565.

<sup>2</sup> Livingston to Madison, May 20, 1803; Nov. 15, 1803; State Papers, ii. 561, 573.

A little violence added to a little diplomacy would answer the purpose. To use the words which "Aristides" Van Ness was soon to utter with striking effect, the United States ministers to France "practised with unlimited success upon the Livingston maxim, —

‘Rem facias, rem

Si possis recte; si non, quocunque modo, REM.’”

## CHAPTER IV.

IN the excitement of this rapid and half-understood foreign drama, domestic affairs seemed tame to the American people, who were busied only with the routine of daily life. They had set their democratic house in order. So short and easy was the task, that the work of a single year finished it. When the President was about to meet Congress for the second time, he had no new measures to offer.<sup>1</sup> "The path we have to pursue is so quiet that we have nothing scarcely to propose to our legislature." The session was too short for severe labor. A quorum was not made until the middle of December, 1802; the Seventh Congress expired March 4, 1803. Of these ten weeks, a large part was consumed in discussions of Morales's proclamation and Bonaparte's scheme of colonizing Louisiana.

On one plea the ruling party relied as an excuse for inactivity and as a defence against attack. Their enemies had said and believed that the democrats possessed neither virtue nor ability enough to carry on the government; but after eighteen months of trial, as the year 1803 began, the most severe Federalist

<sup>1</sup> Jefferson to Thomas Cooper, Nov. 29, 1802; Works, iv. 452.

could not with truth assert that the country had yet suffered in material welfare from the change. Although the peace in Europe, after October, 1801, checked the shipping interests of America, and although France and Spain, returning to the strictness of their colonial system, drove the American flag from their harbors in the Antilles, yet Gallatin at the close of the first year of peace was able to tell Congress<sup>1</sup> that the customs revenue, which he had estimated twelve months before at \$9,500,000, had brought into the Treasury \$12,280,000, or much more than had ever before been realized in a single year from all sources of revenue united. That the Secretary of the Treasury should miscalculate by one third the product of his own taxes was strange; but Gallatin liked to measure the future, not by a probable mean, but by its lowest possible extreme, and his chief aim was to check extravagance in appropriations for objects which he thought bad. His caution increased the popular effect of his success. Opposition became ridiculous when it persisted in grumbling at a system which, beginning with a hazardous reduction of taxes, brought in a single year an immense increase in revenue. The details of Gallatin's finance fretted the Federalists without helping them.

The Federalists were equally unlucky in finding other domestic grievances. The removals from office did not shock the majority. The Judiciary was not

<sup>1</sup> Report of the Secretary of the Treasury, Dec. 16, 1802. *Annals of Congress*, 1802-1803, 1276.



again molested. The overwhelming superiority of the democrats was increased by the admission of Ohio, Nov. 29, 1802. No man of sense could deny that the people were better satisfied with their new Administration than they ever had been with the old. Loudly as New England grumbled, the Federalists even there steadily declined in relative strength; while elsewhere an organized body of opposition to the national government hardly existed. From New York to Savannah, no one complained of being forced to work for national objects; South Carolina as well as Virginia was pleased with the power she helped to sway.

Here and there might be found districts in which Federalism tried to hold its own; but the Federalism of Delaware and Maryland was not dangerous, and even in Delaware the Federalist champion Bayard was beaten by Cæsar A. Rodney in his contest for the House, and was driven to take refuge in the Senate. Pennsylvania, New York, Virginia, and North Carolina were nearly unanimous; and beyond the mountains democracy had its own way without the trouble of a discussion. Federalism was already an old-fashioned thing; a subject of ridicule to people who had no faith in forms; a half-way house between the European past and the American future. The mass of Americans had become democratic in thought as well as act; not even another political revolution could undo what had been done. As a democrat, Jefferson's social success was sweeping and final;

but he was more than a democrat, — and in his other character, as a Virginia republican of the States-rights school, he was not equally successful.

In the short session of 1802–1803 many signs proved that the revolution of 1800 had spent its force, and that a reaction was at hand. Congress showed no eagerness to adopt the President's new economies, and dismissed, with silence almost contemptuous, his scheme for building at Washington a large dry-dock in which the navy should be stored for safety and saving. The mint was continued by law for another five years, and twenty thousand dollars were quietly appropriated for its support. Instead of reducing the navy, Congress decided to build four sixteen-gun brigs and fifteen gunboats, and appropriated ninety-six thousand dollars for the brigs alone. The appropriation of two millions as a first instalment toward paying for New Orleans and Florida was another and a longer stride in the old Federalist path of confidence in the Executive and liberality for national objects. The expenditure for 1802, excluding interest on debt, was \$3,737,000. Never afterward in United States history did the annual expenditure fall below four millions. The navy, in 1802, cost \$915,000; never afterward did it cost less than a million.

The reaction toward Federalist practices was more marked in the attitude of the Executive than in that of Congress. If Jefferson's favorite phrase was true, — that the Federalist differed from the Republican

only in the shade more or less of power to be given the Executive,—it was hard to see how any President could be more Federalist than Jefferson himself. A resolution to commit the nation without its knowledge to an indissoluble British alliance, was more than Washington would have dared take; yet this step was taken by the President, and was sustained by Madison, Gallatin, and Robert Smith as fairly within the limits of the Constitution. In regard to another stretch of the treaty-making power, they felt with reason the gravest doubts. When the President and Cabinet decided early in January, 1803, to send Monroe with two million dollars to buy New Orleans and Florida, a question was instantly raised as to the form in which such a purchase could be constitutionally made. Attorney-General Lincoln wished to frame the treaty or convention in such language as to make France appear not as adding new territory to the United States, but as extending already existing territory by an alteration of its boundary. He urged this idea upon the President in a letter written the day of Monroe's nomination to the Senate.<sup>1</sup>

“ If the opinion is correct,” said he, “ that the general government when formed was predicated on the then existing *United States*, and such as could grow out of them, and out of them only; and that its authority is constitutionally limited to the people composing the several political State societies in that Union, and such as might be formed out of them,— would not a direct independent

<sup>1</sup> Lincoln to Jefferson, Jan. 10, 1803; Jefferson MSS.

purchase be extending the executive power farther, and be more alarming, and improvable by the opposition and the Eastern States, than the proposed indirect mode?"

Jefferson sent this letter to Gallatin, who treated it without favor.<sup>1</sup>

"If the acquisition of territory is not warranted by the Constitution," said he, "it is not more legal to acquire for one State than for the United States. . . . What could, on his construction, prevent the President and Senate, by treaty, annexing Cuba to Massachusetts, or Bengal to Rhode Island, if ever the acquirement of colonies should become a favorite object with governments, and colonies should be acquired? But does any constitutional objection really exist? . . . To me it would appear, (1) that the United States, as a nation, have an inherent right to acquire territory; (2) that whenever that acquisition is by treaty, the same constituted authorities in whom the treaty-making power is vested have a constitutional right to sanction the acquisition."

Gallatin not only advanced Federal doctrine, but used also what the Virginians always denounced as Federalist play on words. "The United States as a nation" had an inherent right to do whatever the States in union cared to do; but the Republican party, with Jefferson, Madison, and Gallatin at their head, had again and again maintained that the United States *government* had the inherent right to do no act whatever, but was the creature of the States in union; and its acts, if not resulting from an expressly granted

<sup>1</sup> Gallatin to Jefferson, Jan. 13, 1803; Gallatin's Works, i. 112.

power, were no acts at all, but void, and not to be obeyed or regarded by the States. No foreigner, not even Gallatin, could master the theory of Virginia and New England, or distinguish between the nation of States in union which granted certain powers, and the creature at Washington to which these powers were granted, and which might be strengthened, weakened, or abolished without necessarily affecting the nation. Whether the inability to grasp this distinction was a result of clearer insight or of coarser intelligence, the fact was the same; and on this point, in spite of his speech on the Alien and Sedition Acts, Gallatin belonged to the school of Hamilton, while both were of one mind with Dallas. The chief avowed object of Jefferson's election had been to overthrow the reign of this school. No Virginian could be expected within two short years to adopt the opinions of opponents who had been so often branded as "monocrats," because of acting on these opinions. Although the Attorney-General's advice was not followed, the negotiation for New Orleans was begun on the understanding that the purchase, if made, would be an inchoate act which would need express sanction from the States in the shape of an amendment to the Constitution.

There the matter rested. At the moment of Monroe's appointment, the President, according to his letters, had little hope of quick success in the purchase of territory. His plan was to "palliate and endure," unless France should force a war upon him;

the constitutional question could wait, and it was accordingly laid aside. Yet the chief ambition of Southern statesmen in foreign affairs was to obtain the Floridas and New Orleans; and in effecting this object they could hardly escape establishing a serious precedent. Already Jefferson had ordered his ministers at Paris to buy this territory, although he thought the Constitution gave him no power to do so; he was willing to increase the national debt for this purpose, even though a national debt was a "mortal canker;" and he ordered his minister, in case Bonaparte should close the Mississippi, to make a permanent alliance with England, or in his own words to "marry ourselves to the British fleet and nation," as the price of New Orleans and Florida. Jefferson foresaw and accepted the consequences of the necessity; he repeatedly referred to them and deprecated them in his letters; but the territory was a vital object, and success there would, as he pointed out, secure forever the triumph of his party even in New England.

"I believe we may consider the mass of the States south and west of Connecticut and Massachusetts as now a consolidated body of Republicanism," — he wrote to Governor McKean in the midst of the Mississippi excitement.<sup>1</sup> "In Connecticut, Massachusetts, and New Hampshire there is still a Federal ascendancy; but it is near its last. If we can settle happily the difficulties of the Mississippi, I think we may promise ourselves smooth seas during our time."

<sup>1</sup> Jefferson to Governor McKean, Feb. 19, 1803; Jefferson MSS.



What he rightly feared more than any other political disaster was the risk of falling back to the feelings of 1798 and 1799, "when a final dissolution of all bonds, civil and social, appeared imminent."<sup>1</sup> With zeal which never flagged, Jefferson kept up his struggle with the New England oligarchy, whose last move alarmed him. So sensitive was the President, that he joined personally in the fray that distracted New England; and while waiting for news from Monroe, he wrote a defence of his own use of patronage, showing, under the assumed character of a Massachusetts man, that a proportionate division of offices between the two parties would, since the Federalists had so much declined in numbers, leave to them even a smaller share of Federal offices than they still possessed. This paper he sent to Attorney-General Lincoln,<sup>2</sup> to be published in the Boston "Chronicle;" and there, although never recognized, it appeared.

Had the Federalists suspected the authorship, they would have fallen without mercy upon its arguments and its inserted compliment to "the tried ability and patriotism of the present Executive;" but the essay was no sooner published than it was forgotten. The "Chronicle" of June 27, 1803, contained Jefferson's argument founded on the rapid disappearance of the Federalist party; the next issue of the "Chronicle," June 30, contained a single headline, which sounded the death-knell of Federalism altogether: "Louisiana

<sup>1</sup> Jefferson to Colonel Hawkins, Feb. 18, 1803; Works, iv. 565.

<sup>2</sup> Jefferson's Writings (Ford), viii. 234.

ceded to the United States!" The great news had arrived; and the Federalist orators of July 4, 1803, set about their annual task of foreboding the ruin of society amid the cheers and congratulations of the happiest society the world then knew.

The President's first thought was of the Constitution. Without delay he drew up an amendment, which he sent at once to his Cabinet.<sup>1</sup> "The province of Louisiana is incorporated with the United States and made part thereof," began this curious paper; "the rights of occupancy in the soil and of self-government are confirmed to the Indian inhabitants as they now exist." Then, after creating a special Constitution for the territory north of the 32d parallel, reserving it for the Indians until a new amendment to the Constitution should give authority for white ownership, the draft provided for erecting the portion south of latitude 32° into a territorial government, and vesting the inhabitants with the rights of other territorial citizens.

Gallatin took no notice of this paper, except to acknowledge receiving it.<sup>2</sup> Robert Smith wrote at some length, July 9, dissuading Jefferson from grafting so strange a shoot upon the Constitution.<sup>3</sup>

"Your great object is to prevent emigrations," said he, "excepting to a certain portion of the ceded territory. This could be effectually accomplished by a con-

<sup>1</sup> Jefferson's Writings (Ford), viii. 241.

<sup>2</sup> Gallatin to Jefferson, July 9, 1803; Works, i. 127.

<sup>3</sup> Jefferson's Writings (Ford), viii. 241.

stitutional prohibition that Congress should not erect or establish in that portion of the ceded territory situated north of latitude  $32^{\circ}$  any new state or territorial government, and that they should not grant to any people excepting Indians any right or title whatever to any part of the said portion of the said territory."

Of any jealousy between North and South which could be sharpened by such a restriction of northern and extension of southern territory, Jefferson was unaware. He proposed his amendment in good faith as a means of holding the Union together by stopping its too rapid extension into the wilderness.

Coldly as his ideas were received in the Cabinet, Jefferson did not abandon them. Another month passed, and a call was issued for a special meeting of Congress October 17 to provide the necessary legislation for carrying the treaty into effect. As the summer wore away, Jefferson imparted his opinions to persons outside the Cabinet. He wrote, August 12, to Breckinridge of Kentucky a long and genial letter. Congress, he supposed,<sup>1</sup> after ratifying the treaty and paying for the country, "must then appeal to *the nation* for an additional article to the Constitution approving and confirming an act which the nation had not previously authorized. The Constitution has made no provision for our holding foreign territory, still less for incorporating foreign nations into our Union. The Executive, in seizing the fugitive occurrence which so much advances the good of their country,

<sup>1</sup> Jefferson to Breckinridge, Aug. 12, 1803; Works, iv. 498.

have done an act beyond the Constitution. The Legislature, in casting behind them metaphysical subtleties and risking themselves like faithful servants, must ratify and pay for it, and throw themselves on their country for doing for them unauthorized what we know they would have done for themselves had they been in a situation to do it."

Breckinridge—whose Kentucky Resolutions, hardly five years before, declared that unconstitutional assumptions of power were the surrender of the form of government the people had chosen, and the replacing it by a government which derived its powers from its own will—might be annoyed at finding his principles abandoned by the man who had led him to father them; and surely no leader who had sent to his follower in one year the draft of the Kentucky Resolutions could have expected to send in another the draft of the Louisiana treaty. "I suppose they must then appeal to *the nation*" were the President's words; and he underscored this ominous phrase. "We shall not be disavowed by the nation, and their act of indemnity will confirm and not weaken the Constitution by more strongly marking out its lines." The Constitution, in dealing with the matter of amendments, made no reference to the nation; the word itself was unknown to the Constitution, which invariably spoke of the *Union* wherever such an expression was needed; and on the Virginia theory Congress had no right to appeal to the nation at all, except as a nation of States, for an amendment. The language

used by Jefferson was the language of centralization, and would have been rejected by him and his party in 1798 or in 1820.

On the day of writing to Breckinridge the President wrote in a like sense to Paine; but in the course of a week despatches arrived from Paris which alarmed him. Livingston had reason to fear a sudden change of mind in the First Consul, and was willing to hasten the movements of President and Congress. Jefferson took the alarm, and wrote instantly to warn Breckinridge and Paine that no whisper of constitutional difficulties must be heard: <sup>1</sup>—

“I wrote you on the 12th instant on the subject of Louisiana and the constitutional provision which might be necessary for it. A letter received yesterday shows that nothing must be said on that subject which may give a pretext for retracting, but that we should do *sub silentio* what shall be found necessary. Be so good, therefore, as to consider that part of my letter as confidential.”

He gave the same warning to his Cabinet: <sup>2</sup> “I infer that the less we say about constitutional difficulties the better; and that what is necessary for surmounting them must be done *sub silentio*.”

He then drew up a new amendment, which he sent to the members of his Cabinet. <sup>3</sup> The July draft was

<sup>1</sup> Jefferson's Writings (Ford), viii. 245.

<sup>2</sup> Jefferson to Madison, Aug. 18, 1803; to R. Smith, Aug. 23; Jefferson MSS.

<sup>3</sup> Jefferson to Madison, Aug. 25; to Lincoln, Aug. 30, 1803; Works, iv. 501-505; to Gallatin, Aug. 23, 1803; Gallatin's Works, i. 144.

long, elaborate, and almost a new Constitution in itself; the August draft was comparatively brief. "Louisiana as ceded by France to the United States is made a part of the United States. Its white inhabitants shall be citizens, and stand, as to their rights and obligations, on the same footing with other citizens of the United States in analogous situations." The whole country north of the Arkansas River was reserved for Indians until another amendment should be made; and as an afterthought Florida was to be admitted as a part of the United States "whenever it may be rightfully obtained."

These persistent attempts to preserve his own consistency and that of his party were coldly received. Jefferson found himself alone. Wilson Cary Nicholas, a prominent supporter of the Virginia Resolutions in 1798 and a senator of the United States in 1803, had a long conversation with the President, and in the early days of September wrote him a letter which might have come from Theodore Sedgwick or Roger Griswold in the days of Jay's treaty, when Federalist notions of prerogative ran highest.

"Upon an examination of the Constitution," wrote Nicholas,<sup>1</sup> "I find the power as broad as it could well be made (Sect. 3, Art. IV.), except that new States cannot be formed out of the old ones without the consent of the *State* to be dismembered; and the exception is a proof to my mind that it was not intended to confine the Congress in the admission of new States to what was then the ter-

<sup>1</sup> W. C. Nicholas to Jefferson, Sept. 3, 1803; Jefferson MSS.



ritory of the United States. Nor do I see anything in the Constitution that limits the treaty-making power, except the general limitations of the other powers given to the government, and the evident objects for which the government was instituted."

Had Nicholas reasoned thus in 1798 he would have been a Federalist, as he seemed conscious, for he went on to say: "I am aware that this is to us delicate ground, and perhaps my opinions may clash with the opinions given by our friends during the discussion of the British treaty." Nevertheless he argued that if this treaty was unconstitutional, all other treaties were open to the same objection, and the United States government in such a case could make no treaty at all. Finally, he begged the President to avoid giving an opinion on the subject: "I should think it very probable if the treaty should be declared by you to exceed the constitutional authority of the treaty-making power, it would be rejected by the Senate, and if that should not happen, that great use would be made with the people of a wilful breach of the Constitution."

Such reasoning in the mouths of Virginia Republicans, who had asked and gained office by pledging themselves to their people against the use of implied powers, marked a new epoch. From them the most dangerous of all arguments, the *reductio ad absurdum*, was ominous. What right had they to ask whether any constitutional grant was less complete than the people might have wished or intended? If

the Constitution were incomplete or absurd, not the government, but the people of the States who had made it were the only proper authority to correct it. Otherwise, as Nicholas had so often pointed out, their creature would become their tyrant, as had been the law of politics from the beginning.

Jefferson was distressed to find himself thus deserted by his closest friends on an issue which he felt to be vital. The principle of strict construction was the breath of his political life. The Pope could as safely trifle with the doctrine of apostolic succession as Jefferson with the limits of Executive power. If he and his friends were to interpret the treaty-making power as they liked, the time was sure to come when their successors would put so broad an interpretation on other powers of the government as to lead from step to step, until at last Virginia might cower in blood and flames before the shadowy terror called the war-power. With what face could Jefferson then appear before the tribunal of history, and what position could he expect to receive?

All this he felt in his kindly way; and with this weight on his mind he wrote his reply to Nicholas.<sup>1</sup> Beginning with the warning that Bonaparte could not be trusted, and that Congress must act with as little debate as possible, particularly as respected the constitutional difficulty, he went on:—

“I am aware of the force of the observations you make on the power given by the Constitution to Congress

<sup>1</sup> Jefferson to W. C. Nicholas, Sept. 7, 1803; Works, iv. 505.

to admit new States into the Union without restraining the subject to the territory then constituting the United States. But when I consider that the limits of the United States are precisely fixed by the treaty of 1783, that the Constitution expressly declares itself to be made for the United States, . . . I do not believe it was meant that [Congress] might receive England, Ireland, Holland, etc., into it, — which would be the case on your construction. . . . I had rather ask an enlargement of power from the nation, where it is found necessary, than to assume it by a construction which would make our powers boundless. Our peculiar security is in the possession of a written Constitution. Let us not make it a blank paper by construction. I say the same as to the opinion of those who consider the grant of the treaty-making power as boundless. If it is, then we have no Constitution.”

From the Virginia standpoint nothing could be better said. Jefferson in this letter made two points clear: the first was that the admission of Louisiana into the Union without express authority from the States made blank paper of the Constitution; the second was that if the treaty-making power was equal to this act, it superseded the Constitution. He entertained no doubts on either point, and time sustained his view; for whether he was right or wrong in law, the Louisiana treaty gave a fatal wound to “strict construction,” and the Jeffersonian theories never again received general support. In thus giving them up, Jefferson did not lead the way, but he allowed his friends to drag him in the path they chose. The

leadership he sought was one of sympathy and love, not of command; and there was never a time when he thought that resistance to the will of his party would serve the great ends he had in view. The evils which he foresaw were remote: in the hands of true Republicans the Constitution, even though violated, was on the whole safe; the precedent, though alarming, was exceptional. So it happened that after declaring in one sentence the Constitution at an end if Nicholas had his way, Jefferson in the next breath offered his acquiescence in advance: —

“ I confess I think it important in the present case to set an example against broad construction by appealing for new power to the people. If, however, our friends shall think differently, certainly I shall acquiesce with satisfaction, confiding that the good sense of our country will correct the evil of construction when it shall produce ill effects.”

With these words Jefferson closed his mouth on this subject forever. Although his future silence led many of his friends to think that he ended by altering his opinion, and by admitting that his purchase of Louisiana was constitutional, no evidence showed the change; but rather one is led to believe that when in later life he saw what he called the evils of construction grow until he cried against them with violence almost as shrill as in 1798, he felt most strongly the fatal error which his friends had forced him to commit, and which he could neither repudiate nor defend. He had declared that he would acqui-

esce with satisfaction in making blank paper of the Constitution.

A few weeks later, Oct. 17, 1803, Congress met. The President's Message had little to say of domestic affairs. The Kaskaskia Indians had sold their territory to the United States, the revenue had again exceeded the estimate, more than three millions of debt had been paid within the year. Much was said about war in Europe and the rights and duties of neutrals, about gunboats which were no longer needed, and about the unsettled boundary in Maine and at the Lake of the Woods, but not a word about the constitutional difficulties raised by the Louisiana treaty. "With the wisdom of Congress it will rest," said Jefferson, "to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country, for its incorporation into our Union, for rendering the change of government a blessing to our newly adopted brethren, for securing to them the rights of conscience and of property, for confirming to the Indian inhabitants their occupancy and self-government." These were the points of his proposed amendment; but he gave no sign of his opinion that Congress was incompetent to deal with them, and that the Senate was equally incompetent to make the treaty valid.

There were good reasons for silence. Not only were Livingston's letters alarming, but the Marquis of Casa Yrujo, the friend and benefactor of the Administration, sent to Madison one protest after

another against the sale of Louisiana.<sup>1</sup> He quoted St.-Cyr's letter of July, 1802, which bound France not to alienate the province, and he declared that France had never carried out the conditions of contract in regard to Tuscany, and therefore could not rightfully treat Louisiana as her own. A probable war with Spain stared Jefferson in the face, even if Bonaparte should raise no new difficulties. The responsibility for a mistake was great, and no one could blame Jefferson if he threw his burden on Congress.

<sup>1</sup> Yrujo to Madison, Sept. 4, Sept. 27, Oct. 12, 1803; State Papers, ii. 569, 570.



## CHAPTER V.

IF President Jefferson and Secretary Madison, who wrote the Resolutions of 1798, acquiesced, in 1803, in a course of conduct which as Jefferson believed made blank paper of the Constitution, and which, whether it did so or not, certainly made waste paper of the Virginia and Kentucky Resolutions, no one could expect that their followers would be more consistent or more rigid than themselves. Fortunately, all the more prominent Republicans of 1798 had been placed in office by the people as a result of popular approval, and were ready to explain their own views. In the Senate sat John Breckinridge of Kentucky, supposed to be the author of the Kentucky Resolutions, and known as their champion in the Kentucky legislature. From Virginia came John Taylor of Caroline, the reputed father of the Virginia Resolutions, and the soundest of strict constructionists. Twenty years later, his "Construction Construed" and "New Views of the Constitution" became the text-books of the States-rights school. His colleague was Wilson Cary Nicholas, who had also taken a prominent part in supporting the Virginia Resolutions,

and whose devotion to the principles of strict construction was beyond doubt. One of the South Carolina senators was Pierce Butler; one of those from North Carolina was David Stone; Georgia was represented by Abraham Baldwin and James Jackson,—staunch States-rights Republicans all. In the House a small coterie of States-rights Republicans controlled legislation. Speaker Macon was at their head; John Randolph, chairman of the Ways and Means Committee, was their mouthpiece. Joseph H. Nicholson of Maryland, and Cæsar A. Rodney of Delaware, supported Randolph on the committee; while two of President Jefferson's sons-in-law, Thomas Mann Randolph and John W. Eppes, sat in the Virginia delegation. Both in Senate and House the Southern Republicans of the Virginia school held supremacy; their power was so absolute as to admit no contest; they were at the flood of that tide which had set in three years before. In the Senate they controlled twenty-five votes against nine; in the House, one hundred and two against thirty-nine. Virginia ruled the United States, and the Republicans of 1798 ruled Virginia. The ideal moment of Republican principles had arrived.

This moment was big with the fate of theories. Other debates of more practical importance may have frequently occurred,—for in truth whatever the decision of Congress might have been, it would in no case have affected the result that Louisiana was to enter the Union; and this inevitable result over-

shadowed all theory,—but no debate ever took place in the Capitol which better deserved recollection.

Of extraordinary ability Congress contained but little, and owing to the meagre character of the reports, appeared to contain even less than it actually possessed; but if no one rose to excellence either of logic or rhetoric, the speakers still dealt with the whole subject, and rounded the precedent with all the argument and illustration that a future nation could need. Both actions and words spoke with decision and distinctness till that time unknown in American politics.

The debate began first in the House, where Gaylord Griswold of New York, Oct. 24, 1803, moved for such papers as the Government might possess tending to show the value of the title to Louisiana as against Spain. Under the lead of John Randolph the House refused the call. That this decision clashed with the traditions of the Republican party was proved by the vote. With a majority of three to one, Randolph succeeded in defeating Griswold only by fifty-nine to fifty-seven; while Nicholson, Rodney, Varnum of Massachusetts, and many other stanch Republicans voted with the Federalists.

The next day the House took up the motion for carrying the treaty into effect. Griswold began again, and without knowing it repeated Jefferson's reasoning. The framers of the Constitution, he said, "carried their ideas to the time when there might be an extended population; but they did not carry them

forward to the time when an addition might be made to the Union of a territory equal to the whole United States, which additional territory might overbalance the existing territory, and thereby the rights of the present citizens of the United States be swallowed up and lost." The power to admit new States referred only to the territory existing when the Constitution was framed; but this right, whatever it might be, was vested in Congress, not in the Executive. In promising to admit Louisiana as a State into the Union, the treaty assumed for the President power which in any case could not have been his. Finally, the treaty gave to French and Spanish ships special privileges for twelve years in the port of New Orleans; while the Constitution forbade any preference to be given, by any regulation of commerce or revenue, to the ports of one State over those of another.

John Randolph next rose. Just thirty years old, with a sarcasm of tone and manner that overbore remonstrance, and with an authority in the House that no one contested, Randolph spoke the voice of Virginia with autocratic distinctness. His past history was chiefly marked by the ardor with which, from 1798 to 1800, he had supported the principles of his party and encouraged resistance to the national government. He had gone beyond Jefferson and Madison in willingness to back their theories by force, and to fix by a display of Virginia power the limit beyond which neither Executive, Congress, nor Judiciary should pass. Even then he probably cared

little for what he called the "parchment barriers" of the Constitution: in his mind force was the real balance, — force of State against force of Union; and any measure which threatened to increase the power of the national government beyond that of the State, was sure of his enmity. A feather might turn the balance, so nice was the adjustment; and Randolph again and again cried with violence against feathers.

In the Louisiana debate, Randolph spoke in a different tone. The Constitution, he said, could not restrict the country to particular limits, because at the time of its adoption the boundary was unsettled on the northeastern, northwestern, and southern frontiers. The power to settle disputes as to limits was indispensable; it existed in the Constitution, had been repeatedly exercised, and involved the power of extending boundaries.

This argument was startling in the mouth of one who had helped to arm the State of Virginia against a moderate exercise of implied powers. Randolph asserted that the right to annex Louisiana, Texas, Mexico, South America, if need be, was involved in the right to run a doubtful boundary line between the Georgia territory and Florida. If this power existed in the government, it necessarily devolved on the Executive as the organ for dealing with foreign States. Thus Griswold's first objection was answered.

Griswold objected in the second place that the treaty made New Orleans a favored port. "I regard

this stipulation," replied Randolph, "as a part of the price of the territory. It was a condition which the party ceding had a right to require, and to which we had a right to assent. The right to acquire involves the right to give the equivalent demanded." Randolph did not further illustrate this sweeping principle of implied power.

After the subject had been treated by speakers of less weight, Roger Griswold of Connecticut took the floor. So long as his party had been in office, the vigor of the Constitution had found no warmer friend than he; but believing New England to have fallen at the mercy of Virginia, he was earnest to save her from the complete extinction which he thought near at hand. Griswold could not deny that the Constitution gave the power to acquire territory: his Federalist principles were too fresh to dispute such an inherent right; and Gouverneur Morris, as extreme a Federalist as himself, whose words had been used in the Constitution, averred that he knew in 1788 as well as he knew in 1803, that all North America must at length be annexed, and that it would have been Utopian to restrain the movement.<sup>1</sup> This was old Federalist doctrine, resting on "inherent rights," on nationality and broad construction,—the Federalism of President Washington, which the Republican party from the beginning denounced as monarchical. Griswold would not turn his back on it; he still took

<sup>1</sup> Morris to H. W. Livingston, Nov. 25, 1803. Writings of Gouverneur Morris, iii. 185.



a liberal view of the power, and even stretched it beyond reasonable shape to accord with Morris's idea. "A new territory and new subjects," said he, "may undoubtedly be obtained by conquest and by purchase; but neither the conquest nor the purchase can incorporate them into the Union. They must remain in the condition of colonies, and be governed accordingly." This claim gave the central government despotic power over its new purchase; but it declared that a treaty which pledged the nation to admit the people of Louisiana into the Union must be invalid, because it assumed that "the President and Senate may admit at will any foreign nation into this copartnership without the consent of the States," — a power directly repugnant to the principles of the compact. In substance, Griswold maintained that either under the war power or under the treaty-making power the government could acquire territory, and as a matter of course could hold and govern that territory as it pleased, — despotically if necessary, or for selfish objects; but that the President and Senate could not admit a foreign people into the Union, as a State. Yet to this, the treaty bound them.

To meet this attack the Republicans put forward their two best men, — Joseph H. Nicholson of Maryland, and Cæsar A. Rodney of Delaware. The task was difficult, and Nicholson showed his embarrassment at the outset. "Whether the United States," said he, "as a sovereign and independent empire,

has a right to acquire territory is one thing; but whether they can admit that territory into the Union upon an equal footing with the other States is a question of a very different nature." He refused to discuss this latter issue; in his opinion it was not before the House.

This flinching was neither candid nor courageous; but it was within the fair limits of a lawyer's if not of a statesman's practice, and Nicholson at least saved his consistency. On the simpler question, whether "a sovereign nation," as he next said, "had a right to acquire new territory," he spoke with as much emphasis as Roger Griswold and Gouverneur Morris, and he took the same ground. The separate States had surrendered their sovereignty by adopting the Constitution; "the right to declare war was given to Congress; the right to make treaties, to the President and Senate. Conquest and purchase alone are the means by which nations acquire territory." Griswold was right, then, in the ground he had taken; but Nicholson, not satisfied with gaining his point through the treaty-making power, which was at least express, added: "The right must exist somewhere: it is essential to independent sovereignty." As it was prohibited to the States, the power was necessarily vested in the United States.

This general implication, that powers inherent in sovereignty which had not been expressly reserved to the States were vested in the national government, was not more radical centralization than

Nicholson's next point. The treaty gave to the port of New Orleans a decided preference over all other ports of the United States, although the Constitution said that no preference should be given to the ports of one State over those of another. To this objection Nicholson replied that Louisiana was not a State. "It is a territory purchased by the United States in their confederate capacity, and may be disposed of by them at pleasure. It is in the nature of a colony whose commerce may be regulated without any reference to the Constitution." The new territory, therefore, was in the nature of a European colony; the United States government might regulate its commerce without regard to the Constitution, give its population whatever advantages Congress might see fit, and use it to break down New England — or slavery.

With the fecund avowal that Louisiana must be governed by Congress at pleasure without reference to the Constitution, Nicholson sat down; and Cæsar Rodney took the floor, — an able and ingenious lawyer, who came to the House with the prestige of defeating the Federalist champion Bayard. If Randolph and Nicholson, like the mouse in the fable nibbling at the cords which bound the lion of Power, had left one strand still unsevered, the lion stood wholly free before Rodney ended. He began by appealing to the "general welfare" clause, — a device which the Republican party and all States-rights advocates once regarded as little short of treason. "I cannot

perceive," said he, "why within the fair meaning of this general provision is not included the power of increasing our territory, if necessary for the general welfare or common defence." This argument in such a mouth might well have sent a chill to the marrow of every Republican of 1798; but this was not the whole. He next invoked the "necessary and proper" clause, even at that early time familiar to every strict constructionist as one of the most dangerous instruments of centralization. "Have we not also vested in us every power necessary for carrying such a treaty into effect, in the words of the Constitution which give Congress the authority to 'make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof'?"

One more point was affirmed by Rodney. Gaylord Griswold had maintained that the territory mentioned in the Constitution was the territory existing in 1789. Rodney denied it. Congress, he said, had express power to "make all needful rules and regulations" respecting any and all territory; it had no need to infer this power from other grants. As for the special privilege of trade accorded to New Orleans, it violated in no way the Constitution; it was indirectly a benefit to all the States, and a preference to none.

The Northern democrats also supported these views; but the opinions of Northern democrats on

constitutional questions carried little weight. Neither among them nor among Southern Republicans did any member question what Randolph, Nicholson, and Rodney had said. Macon sat silent in his chair, while John Randolph closed the debate. As though he could not satisfy himself with leaving a doubt as to the right of Government to assume what powers it wanted, Randolph took this moment to meet Roger Griswold's assertion that the United States government could not lawfully incorporate Great Britain or France into the Union. Randolph affirmed that, so far as the Constitution was concerned, this might be done. "We cannot because we cannot."

The reply was disingenuous, but decisive. The question was not whether the States in union could lawfully admit England or France into the Union, for no one denied that the States could do what they pleased. Griswold only affirmed that the people of the States had never delegated to John Randolph or Thomas Jefferson, or to a majority of the United States Senate, the right to make a political revolution by annexing a foreign State. Jefferson agreed with Griswold that they had not; if they had, "then we have no Constitution" was his comment. Yet not a voice was raised in the Administration party against Randolph's views. After one day's debate, ninety Republicans supported Randolph with their votes, and twenty-five Federalists alone protested. Of these twenty-five, not less than seventeen were from New England.

A week afterward, Nov. 2, 1803, the Senate took up the subject. After several speeches had been made without touching deeply the constitutional difficulty, Senator Pickering of Massachusetts took the floor, and in a few words stated the extreme New England doctrine. Like Griswold and Gouverneur Morris, he affirmed the right of conquest or of purchase, and the right to govern the territory so acquired as a dependent province; but neither the President nor Congress could incorporate this territory in the Union, nor could the incorporation lawfully be effected even by an ordinary amendment to the Constitution. "I believe the assent of each individual State to be necessary for the admission of a foreign country as an associate in the Union, in like manner as in a commercial house the consent of each member would be necessary to admit a new partner into the company." With his usual skill in saying what was calculated to annoy,—a skill in which he had no superior,—he struck one truth which no other eyes would see. "I believe that this whole transaction has been purposely wrapped in obscurity by the French government. The boundary of Louisiana, for instance, on the side of Florida is in the treaty really unintelligible; and yet nothing was more easy to define."

Pickering was followed by Dayton of New Jersey, and he by the celebrated John Taylor of Caroline, the senator from Virginia, whose Resolutions of 1798, with echoes which were to ring louder and louder for



sixty years to come, had declared "deep regret that a spirit has in sundry instances been manifested by the federal government to enlarge its powers by forced constructions of the constitutional charter which defines them; and that indications have appeared of a design to expound certain general phrases . . . so as to consolidate the States by degrees into one sovereignty." In purchasing Louisiana, the United States government had done an act identical with the despotic acts of consolidated European governments,—it had bought a foreign people without their consent and without consulting the States, and had pledged itself to incorporate this people in the Union. Colonel Taylor's argument, so far as it went, supported the act; and although it evaded, or tried to evade, the most difficult points of objection, it went as far as the farthest in the path of forced construction. On the right to acquire territory, Taylor took the ground taken by Joseph Nicholson in the House,—he inferred it from the war and treaty powers: "If the means of acquiring and the right of holding are equivalent to the right of acquiring territory, then this right merged from the separate States to the United States, as indispensably annexed to the treaty-making power and the power of making war" This part of the Federalist scheme he adopted without a murmur; but when he came to the next inevitable step, he showed the want of courage often felt by honest men trying to be untrue to themselves. This territory which the Washington government

could acquire by conquest or treaty,—what was its status? Could the Washington government “dispose of” it, as the government was expressly permitted to dispose of the territory it already held under the Constitution; or must Louisiana be governed extra-constitutionally by “inherent powers,” as Griswold maintained; or ought Congress to ask for new and express authority from the States? Taylor took the first position. The treaty-making power, he said, was not defined; it was competent to acquire territory. This territory by the acquisition became a part of the Union, a portion of the territories of the United States, and might be “disposed of” by Congress without an amendment to the Constitution. Although Taylor differed with Jefferson on this point, no objection could be made to the justice of his opinion except that it left the true dispute to be settled by mere implication. The power of the government over the territory had no limits, so far as Colonel Taylor defined it; yet it either could or could not admit the new territory as a State. If it could, the government could alter the original compact by admitting a foreign country as a State; if it could not, either the treaty was void, or government must apply to the people of the States for new powers.

Uriah Tracy of Connecticut replied to Taylor in a speech which was probably the best on his side of the question. His opposition to the purchase was grounded on a party reason: “The relative strength

which this admission gives to a Southern and Western interest is contradictory to the principles of our original Union." The President and Senate had no power to make States, and the treaty was void.

"I have no doubt but we can obtain territory either by conquest or compact, and hold it, even all Louisiana and a thousand times more if you please, without violating the Constitution. We can hold territory; but to admit the inhabitants into the Union, to make citizens of them, and States, by treaty, we cannot constitutionally do; and no subsequent act of legislation, or even ordinary amendment to our Constitution, can legalize such measures. If done at all, they must be done by universal consent of all the States or partners to our political association; and this universal consent I am positive can never be obtained to such a pernicious measure as the admission of Louisiana, — of a world, and such a world, into our Union. This would be absorbing the Northern States, and rendering them as insignificant in the Union as they ought to be, if by their own consent the measure should be adopted."

Tracy's speech was answered by Breckinridge of Kentucky, who had induced the Kentucky legislature, only five years before, to declare itself determined "tamely to submit to undelegated, and consequently unlimited, powers in no man or body of men on earth;" and to assert further that submission to the exercise of such powers "would be to surrender the form of government we have chosen, and to live under one deriving its powers from its own will, and not from our authority." When he came to deal with

the same question in a new form, he glided with extreme delicacy over the thin ice of the Constitution. His answer to Tracy was an admission. He pointed out that the Federalist argument carried centralization further than it was carried by this treaty. "By his construction," said Breckinridge, "territories and citizens are considered and held as the property of the government of the United States, and may consequently be used as dangerous engines in the hands of the government against the States and people." This was true. The Federalists maintained that such territory could be held only as property, not as part of the Union; and the consequences of this doctrine, if granted, were immense. Breckinridge argued that the admission by treaty of a foreign State was less dangerous, and therefore more constitutional, than such ownership of foreign territory. The conclusion was not perfectly logical, and was the less so because he denied the power in neither case. "Could we not," he went on, quoting from Tracy's speech, "incorporate in the Union some foreign nation containing ten millions of inhabitants, — Africa, for instance, — and thereby destroy our government? Certainly the thing would be possible if Congress would do it and the people consent to it. . . . The true construction must depend on the manifest import of the instrument and the good sense of the community." What then had become of the old Republican principle that acts of undelegated authority were no acts at all? Or had the States really delegated to the President and

two thirds of the Senate the right to "destroy our government"? If Breckinridge had expressed these ideas in his Kentucky Resolutions, American history would have contained less dispute as to the meaning of States-rights and the powers of the central government; but Breckinridge himself would have then led the Federalist, not the Republican party.

Breckinridge's speech was followed by one from Pickering's colleague, the young senator from Massachusetts, son of John Adams, the Federalist President whom Jefferson had succeeded. The Federalist majority in Massachusetts was divided; one portion followed the lead of the Essex Junto, the other and larger part yielded unwillingly to the supremacy of Alexander Hamilton and George Cabot. When in the spring of 1803 both seats of Massachusetts in the United States Senate became by chance vacant at once, the Essex Junto wished to choose Timothy Pickering for the long term. The moderate Federalists set Pickering aside, elected John Quincy Adams, then thirty-six years old, for the long term, and allowed Pickering to enter the Senate only as junior senator to a man more than twenty years younger than himself, whose father had but three years before dismissed Pickering abruptly and without explanation from his Cabinet. Neither of the senators owned a temper or character likely to allay strife. The feud between them was bitter and life-long. From the moment of their appearance in the Senate they took opposite sides.

Pickering held with Tracy, Griswold, and all the extreme Federalists that the treaty was void, and that the admission of Louisiana as a State without the separate consent of each State in the Union was a rupture of the compact, which broke the tie and left each State free to act independently of the rest. His colleague was as decided in favor of the Louisiana purchase as Pickering and Tracy were opposed to it; but he too agreed that the treaty was outside of the Constitution, and he urged the Senate to take this view. He believed that even Connecticut would approve of admitting Louisiana if the Southern majority had the courage to try the experiment. "I firmly believe, if an amendment to the Constitution, amply sufficient for the accomplishment of everything for which we have contracted, shall be proposed, as I think it ought, it will be adopted by the legislature of every State in the Union." This was in effect the view which Jefferson had pressed upon his Cabinet and friends.

Then came Wilson Cary Nicholas. Five years before, in the Virginia legislature, Nicholas had spoken and voted for the Resolutions moved by his colleague, John Taylor of Caroline. He then said that if the principle were once established that Congress had a right to use powers not expressly delegated, "the tenure by which we hold our liberty would be entirely subverted: instead of rights independent of human control, we must be content to hold by the courtesy and forbearance of those whom we have



heretofore considered as the servants of the people." Instead of using the same language in 1803, he accepted his colleague's views as to the extent of the treaty-making power, and added reasoning of his own. If the spirit of New England Calvinism contained an element of self-deceit, Virginia metaphysics occasionally ran into slippery evasion, as the argument of Nicholas showed. He evaded a straightforward opinion on every point at issue. The treaty-making power was undefined, he thought, but not unlimited; the general limitations of the Constitution applied to it, not the special limitations of power; and of course the treaty must be judged by its conformity with the general meaning of the compact. He then explained away the apparent difficulties in the case. "If the third article of the treaty," said he, "is an engagement to incorporate the territory of Louisiana into the Union of the United States and to make it a State, it cannot be considered as an unconstitutional exercise of the treaty-making power, for it will not be asserted by any rational man that the territory is incorporated as a State by the treaty itself." This incorporation was stipulated to be done "according to the principles of the Constitution," and the States might do it or not, at their discretion: if it could not be done constitutionally, it might be done by amendment.

Nothing could be more interesting than to see the discomfort with which the champions of States-rights tossed themselves from one horn to the other

of the Federalist dilemma. The Federalists cared little on which horn their opponents might choose to impale themselves, for both were equally fatal. Either Louisiana must be admitted as a State, or must be held as territory. In the first case the old Union was at an end; in the second case the national government was an empire, with "inherent sovereignty" derived from the war and treaty-making powers,—in either case the Virginia theories were exploded. The Virginians felt the embarrassment, and some of them, like Nicholas, tried to hide it in a murmur of words and phrases; but the Republicans of Kentucky and Tennessee were impatient of such restraint, and slight as it was, thrust it away. The debate was closed by Senator Cocke of Tennessee, who defied opposition. "I assert," said he, "that the treaty-making powers in this country are competent to the full and free exercise of their best judgment in making treaties without limitation of power."

On this issue the vote was taken without further discussion, and by twenty-six to five the Senate passed the bill. Pickering of Massachusetts, Tracy and Hillhouse of Connecticut, and the two senators Wells and White from Delaware, were alone in opposition.

The result of these debates in the Senate and House decided only one point. Every speaker, without distinction of party, agreed that the United States government had the power to acquire new territory either by conquest or by treaty; the only difference

of opinion regarded the disposition of this territory after it was acquired. Did Louisiana belong to the central government at Washington, or to the States? The Federalists maintained that the central government, representing the States in union, might, if it pleased, as a consequence of its inherent sovereignty, hold the rest of America in its possession and govern it as England governed Jamaica or as Spain was governing Louisiana, but without the consent of the States could not admit such new territory into the Union. The Republicans seemed rather inclined to think that new territory acquired by war or conquest would become at once a part of the general territory mentioned in the Constitution, and as such might be admitted by Congress as a State, or otherwise disposed of as the general welfare might require, but that in either case neither the people nor the States had anything to do with the matter. At bottom, both doctrines were equally fatal to the old status of the Union. In one case the States, formed or to be formed, east of the Mississippi had established a government which could hold the rest of the world in despotic control, and which bought a foreign people as it might buy cattle, to rule over them as their owner; in the other case, the government was equally powerful, and might besides admit the purchased or conquered territory into the Union as States. The Federalist theory was one of empire, the Republican was one of assimilation; but both agreed that the moment had come when the old Union must change

its character. Whether the government at Washington could possess Louisiana as a colony or admit it as a State, was a difference of no great matter if the cession were to hold good; the essential point was that for the first time in the national history all parties agreed in admitting that the government could govern.

## CHAPTER VI.

HARDLY was it decided that the government had an inherent right to acquire territory and annex foreign States, when the next question forced itself on Congress for settlement, — What were the powers of Congress over the new territory?

Three paths were open. The safest was to adopt an amendment of the Constitution admitting Louisiana into the Union and extending over it the express powers of Congress as they had applied to the old territory of the United States. The second course was to assume that the new territory became, by the fact of acquisition, assimilated to the old, and might be “disposed of” in the same way. The third was to hold it apart as a peculiar estate, and govern it, subject to treaty stipulations, by an undefined power implied in the right to acquire, — on the principle that government certainly had the right to govern what it had the right to buy.

The first plan, which was in effect Jefferson’s original idea, preserved the theory of the Constitution as far as was possible; but the Republicans feared the consequences with France and Spain of throwing a doubt on the legality of the treaty. Another reason

for their activity lay in the peculiarities of their character as a party. The Northern democrats, never strict constructionists, knew and cared little for the dogmas of their Southern allies. The Southern Republicans, especially those of the Virginia school, were honest in their jealousy of the central government; but as a class they were impatient of control and unused to self-restraint: they liked to do their will, and counted so surely on their own strength and honesty of purpose that they could not feel the need of a curb upon their power. None of them moved. The only man in Congress who showed a sincere wish to save what could be preserved of the old constitutional theory was Senator Adams of Massachusetts, who called upon Madison October 28, before the debate, to ask whether the Executive intended, through any member of either House, to propose an amendment of the Constitution to carry the treaty into effect.<sup>1</sup> Madison talked to him openly, and expressed ideas which as far as they went were the same with those of Jefferson. For his own part, said Madison, had he been on the floor of Congress he should have seen no difficulty in acknowledging that the Constitution had not provided for such a case as this; that it must be estimated by the magnitude of the object; and that those who had agreed to it must rely upon the candor of their country for justification. Probably, when the immediate pressure

<sup>1</sup> Documents relating to New England Federalism, pp. 156, 157; Diary of J. Q. Adams, i. 267.



of special legislation was past, the matter would be attended to; and if he should have any agency in concerting the measure, he would request its mover to consult Senator Adams. There for a month the matter rested, while Congress adopted its special legislation.

At length, November 25, Senator Adams, becoming impatient, called again on the Secretary of State, with the draft of an amendment which he meant to propose. Madison thought it too comprehensive, and suggested a simple declaration to meet the special case: "Louisiana is hereby admitted into this Union." On the same day Adams accordingly moved for a committee, but could not obtain a seconder. The Senate unanimously refused even the usual civility of a reference. No more was ever heard of amending the Constitution.

With almost unanimous consent Louisiana was taken into the Union by the treaty-making power, without an amendment. This point being fixed, Congress had also to determine whether the new territory should be governed by authority drawn from the power of acquisition, or whether it should be merged in the old territory which Congress had express right to "dispose of" and regulate at will.

By an act of sovereignty as despotic as the corresponding acts of France and Spain, Jefferson and his party had annexed to the Union a foreign people and a vast territory, which profoundly altered the relations of the States and the character of their nation-

ality. By similar acts they governed both. Jefferson, in his special Message of October 23, requested Congress to make "such temporary provisions . . . as the case may require." A select committee, Randolph being chairman, immediately reported a Bill, emanating from the Executive.

"It was a startling Bill," was the criticism<sup>1</sup> of a man who shared in much legislation, "continuing the existing Spanish government; putting the President in the place of the King of Spain; putting all the territorial officers in the place of the King's officers, and placing the appointment of all these officers in the President alone without reference to the Senate. Nothing could be more incompatible with our Constitution than such a government, — a mere emanation of Spanish despotism, in which all powers, civil and military, legislative, executive, and judicial, were in the Intendant General, representing the King; and where the people, far from possessing political rights, were punishable arbitrarily for presuming to meddle with political subjects."

The Federalists immediately objected that the powers conferred on the President by this bill were unconstitutional. The Republicans replied, in effect, that the Constitution was made for States, not for territories. Rodney explained the whole intent of his party in advocating the bill: "It shows that Congress have a power in the territories which they cannot exercise in the States, and that the limitations of power found in the Constitution are applicable to

<sup>1</sup> Examination of the Decision of the Supreme Court in the case of Dred Scott. By Thomas H. Benton, p. 55.

States and not to territories.”<sup>1</sup> John Randolph defended the assumption of power on the ground of necessity, and maintained that the government of the United States, with respect to this territory, possessed the powers of European sovereignty: “Gentlemen will see the necessity of the United States taking possession of this country in the capacity of sovereigns, in the same extent as that of the existing government of the province.” The Bill passed Congress by a party vote, and was approved by Jefferson, October 31,<sup>2</sup> without delay.

The Act of October 31 was a temporary measure rather for taking possession of the territory than for governing it. Four weeks later, Senator Breckinridge moved for a committee to prepare a territorial form of government for Louisiana. Two senators of the States-rights school, — Jackson and Baldwin of Georgia, — besides Breckinridge and J. Q. Adams, were appointed on this committee; and they reported, December 30, a Bill that settled the principle on which the new territory should be governed.

Breckinridge’s Bill divided the purchased country at the 33d parallel, the line which afterward divided the State of Arkansas from the State of Louisiana. The country north of that line was named the District of Louisiana, and, after some dispute, was subjected to the territorial government of the Indiana Territory,

<sup>1</sup> Annals of Congress, 1803–1804, p. 514.

<sup>2</sup> Act of October 31, 1803. Annals of Congress, 1803–1804. App. p. 1245.

consisting of a governor, secretary, and judges without a legislature, all controlled by the Ordinance of 1787. This arrangement implied that Congress considered the new territory as assimilated to the old, and "disposed of" it by the same constitutional power.

The northern district contained few white inhabitants, and its administrative arrangements chiefly concerned Indians; but the southern district, which received the name "Territory of Orleans," included an old and established society, numbering fifty thousand persons. The territory of Ohio numbered only forty-five thousand persons by the census of 1800, while the States of Delaware and Rhode Island contained less than seventy thousand. The treaty guaranteed that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Breckinridge's Bill, which was probably drawn by Madison in co-operation with the President, created a territorial government in which the people of Louisiana were to have no share. The governor and secretary were to be appointed by the President for three years; the legislative council consisted of thir-

teen members to be appointed by the President without consulting the Senate, and was to be convened and prorogued by the governor as he might think proper. The judicial officers, also appointed by the President, were to hold office for four years, instead of the usual term of good behavior. The right to a jury trial was restricted to cases where the matter in controversy exceeded twenty dollars, and to capital cases in criminal prosecutions. The slave-trade was restricted by threefold prohibitions: 1. No slave could be imported from abroad; 2. No slave could be brought into the territory from the Union who had been imported from abroad since May 1, 1798; 3. No slave could be introduced into the territory, "directly or indirectly," except by an American citizen "removing into said territory for actual settlement, and being, at the time of such removal, *bona fide* owner of such slave," — the penalty being three hundred dollars fine and the slave's freedom.

This Bill seemed to set the new Territory apart, as a peculiar estate, to be governed by a power implied in the right to acquire it. The debate which followed its introduction into the Senate was not reported, but the Journal mentioned that Senator Adams, Jan. 10, 1804, moved three Resolutions, to the effect that no constitutional power existed to tax the people of Louisiana without their consent, and carried but three voices with him in support of the principle.<sup>1</sup> Other attempts were made to arrest the exercise of

<sup>1</sup> Diary of J. Q. Adams (Jan. 10, 1804), i. 287.

arbitrary power without better success, and the Bill passed the Senate, Feb. 18, 1804, after six weeks consideration, by a vote of twenty to five.

Few gaps in the parliamentary history of the Union left so serious a want as was caused by the failure to report the Senate debate on this Bill; but the report of the House debate partly supplied the loss, for the Bill became there a target for attack from every quarter. Michael Leib, one of the extreme Pennsylvania democrats, began by objecting to the power given to the governor over the Louisiana legislature as "royal." His colleague, Andrew Gregg, objected altogether to the appointment of the council by the President. Varnum of Massachusetts denounced the whole system, and demanded an elective legislature. Matthew Lyon, who represented Kentucky, compared Jefferson to Bonaparte. "Do we not owe something on this score to principle?" he asked. Speaker Macon took the same ground. George W. Campbell of Tennessee was more precise. "It really establishes a complete despotism," he said; "it does not evince a single trait of liberty; it does not confer one single right to which they are entitled under the treaty; it does not extend to them the benefits of the Federal Constitution, or declare when, hereafter, they shall receive them." On the other hand Dr. Eustis, of Boston, took the ground that a despotism was necessary: "I am one of those who believe that the principles of civil liberty cannot suddenly be engrafted on a people accustomed to a



regimen of a directly opposite hue." In contradiction to the language of the treaty and the principles of his party, he went on to say that the people of Louisiana had no rights: "I consider them as standing in nearly the same relation to us as if they were a conquered country." Other speakers supported him. The Louisianians, it was said, had shed tears when they saw the American flag hoisted in place of the French; they were not prepared for self-government. When the treaty was under discussion, the speakers assumed that the people of Louisiana were so eager for annexation as to make an appeal to them useless; when they were annexed, they were so degraded as not to be worth consulting.

The House refused to tolerate such violation of principle, and by the majority of seventy-four to twenty-three struck out the section which vested legislative powers in the President's nominees. John Randolph did not vote; but his friend Nicholson and the President's son-in-law, Thomas Mann Randolph, were in the minority. By fifty-eight to forty-two the House then adopted an amendment which vested legislative powers, after the first year, in an elective council; by forty-four to thirty-seven the restriction on jury trials was rejected; the Act was then limited to two years; and so altered it passed the House March 17, 1804, several Republicans recording their votes against it to the end.

When the Bill, thus amended, came back to the Senate, that body, March 20, summarily disagreed

with all the changes made by the House except the limitation of time, which the Senate further reduced to one year. This change reconciled the House, not very cheerfully, to recede, and March 23 the Bill, as it passed the Senate, became law by a vote of fifty-one to forty-five. With the passage of this Act and its twin statute for collecting duties in the ceded territory, the precedent was complete. Louisiana received a government in which its people, who had been solemnly promised all the rights of American citizens, were set apart, not as citizens, but as subjects lower in the political scale than the meanest tribes of Indians, whose right to self-government was never questioned.

By these measures the Executive and the Legislature recorded their decision in regard to the powers of government over national territory. The Judiciary was not then consulted; but twenty-five years afterward, in the year 1828, Chief-Justice Marshall was in his turn required to give an opinion, and he added the final authority of the Supreme Court to the precedent. With characteristic wisdom he claimed for the government both the constitutional and the extra-constitutional powers in question. The case concerned the rights of inhabitants of Florida, who he said —

“Do not participate in political power; they do not share in the government till Florida shall become a State. In the mean time Florida continues to be a territory of the United States, governed by virtue of that clause in the

Constitution which empowers Congress 'to make all needful rules and regulations respecting the territory or other property belonging to the United States.' Perhaps the power of governing a territory belonging to the United States which has not, by becoming a State, acquired the means of self-government, may result necessarily from the fact that it is not within the jurisdiction of any particular State, and is within the power and jurisdiction of the United States. The right to govern may be the inevitable consequence of the right to acquire territory. Whichever may be the source whence the power is derived, the possession of it is unquestioned."<sup>1</sup>

The effect of such a precedent on constitutional principles was certain to be great. A government competent to interpret its own powers so liberally in one instance, could hardly resist any strong temptation to do so in others. The doctrines of "strict construction" could not be considered as the doctrines of the government after they had been abandoned in this leading case by a government controlled by strict constructionists. The time came at last when the opponents of centralization were obliged to review their acts and to discover the source of their mistakes. In 1856 the Supreme Court was again required to pronounce an opinion, and found itself confronted by the legislation of 1803-1804 and the decision of Chief-Justice Marshall in 1828. Chief-Justice Taney and his associates, in the case of *Dred Scott*, then reviewed the acts of Jefferson and his

<sup>1</sup> *American Insurance Company and Others v. Canter* (January Term, 1828), 1 Peters's Reports, 511-546.

friends in 1803-1804, and pronounced upon them the final judgment of the States-rights school.

Chief-Justice Taney affirmed the right of the government to buy Louisiana and to govern it, but not to govern it as a part of the old territory over which the Constitution gave Congress unlimited power. Louisiana was governed, according to Marshall's dictum, by a power which was "the inevitable consequence of the right to acquire territory,"—a power limited by the general purposes of the Constitution, and therefore not extending to a colonial system like that of Europe. Territory might thus be acquired; but it was acquired in order to become a State, and not to be held as a colony and governed by Congress with absolute authority; citizens who migrated to it "cannot be ruled as mere colonists dependent upon the will of the general government, and to be governed by any laws it may think proper to impose." The chief-justice dwelt on this point at much length; the federal government, he said, "cannot, when it enters a territory of the United States, put off its character and assume discretionary or despotic powers which the Constitution has denied it."

Even this emphatic opinion, which implied that all the Louisiana legislation was unconstitutional, did not satisfy Justice Campbell, a Georgian, who represented the ultimate convictions of the strict constructionists. Campbell reviewed the national history in search of evidence "that a consolidated power had been inaugurated, whose subject comprehended an

empire, and which had no restriction but the discretion of Congress." He held that the Constitution had been plainly and repeatedly violated; "and in reference to the precedent of 1804, the wisest statesmen protested against it, and the President more than doubted its policy and the power of the government." The Court, he said, could not undertake to conquer their scruples as the President and Congress had done. "They acknowledge that our peculiar security is in the possession of a written Constitution, and they cannot make it blank paper by construction."

This sneer at President Jefferson was almost the last official expression of strict-constructionist principles. Of its propriety the Court itself was the best judge, but its historical interest could not be denied.

If Justice Campbell and Chief-Justice Taney were right, according to the tenets of their school the legislation of 1803-1804 was plainly unconstitutional. In that case, by stronger reasoning the treaty itself was unconstitutional and void from the beginning; for not only did Jefferson's doubts to which Campbell alluded refer to the treaty and not to the legislation, but the treaty was at least equally responsible with the laws for making, in 1803, a situation which required what Campbell denounced, — "the supreme and irresistible power which is now claimed for Congress over boundless territories, the use of which cannot fail to react upon the political system of the States to its subversion."

With the law the story need not concern itself,

but the view of American history thus suggested was peculiarly interesting. If the chief-justice and his associate expressed correctly the opinions of the strict-constructionist school, the government had at some time been converted from a government of delegated powers into a sovereignty. Such was the belief of Campbell's political friends. Four years after the Dred Scott decision was declared, the State of South Carolina, in Convention, issued an "Address to the People of the Slave-holding States," justifying its act of secession from the Union.

"The one great evil," it declared, "from which all other evils have flowed, is the overthrow of the Constitution of the United States. The government of the United States is no longer the government of confederated republics, but of a consolidated democracy. It is no longer a free government, but a despotism."

If the strict constructionists held this opinion, they necessarily believed that at some moment in the past the government must have changed its character. The only event which had occurred in American history so large in its proportions, so permanent in its influence, and so cumulative in its effects as to represent such a revolution was the Louisiana purchase; and if the Louisiana purchase was to be considered as having done what the Federalists expected it to do,—if it had made a new constitution and a government of sovereign powers,—the strict constructionists were not only consenting parties to the change, they were its authors.



From every point of view, whether Justice Campbell and the secession convention of South Carolina were right or wrong in their historical judgment, the Louisiana purchase possessed an importance not to be ignored. Even in 1804 the political consequences of the act were already too striking to be overlooked. Within three years of his inauguration Jefferson bought a foreign colony without its consent and against its will, annexed it to the United States by an act which he said made blank paper of the Constitution; and then he who had found his predecessors too monarchical, and the Constitution too liberal in powers,—he who had nearly dissolved the bonds of society rather than allow his predecessor to order a dangerous alien out of the country in a time of threatened war,—made himself monarch of the new territory, and wielded over it, against its protests, the powers of its old kings. Such an experience was final; no century of slow and half-understood experience could be needed to prove that the hopes of humanity lay thenceforward, not in attempting to restrain the government from doing whatever the majority should think necessary, but in raising the people themselves till they should think nothing necessary but what was good.

Jefferson took a different view. He regarded, or wished to regard, the Louisiana treaty and legislation as exceptional and as forming no precedent. While he signed the laws for governing the territory, he warmly objected to the establishment of a branch

bank of the United States at New Orleans. "This institution is one of the most deadly hostility existing against the principles and form of our Constitution," he wrote to Gallatin;<sup>1</sup> "ought we to give further growth to an institution so powerful, so hostile?" Gallatin was clear that the business of the Treasury required such aid, and Jefferson again acquiesced. Gallatin was also allowed and encouraged to enforce the restrictions on the importation of slaves into Louisiana.<sup>2</sup> "It seems that the whole Cabinet," wrote the French *chargé* to his government, "put the utmost weight on this prohibition. Mr. Jefferson is earnestly bent on maintaining it, and his Secretary of the Treasury takes the severest measures to insure its execution."

As though the annexation of Louisiana alone made not enough change in the old established balances of the Constitution, Congress took up another matter which touched the mainspring of the compact. A new Presidential election was at hand. The narrow escape of 1800 warned the party in power not again to risk society by following the complicated arrangements of 1788. In the convention which framed the Constitution no single difficulty was more serious than that of compromising the question of power between the large and small States. Delaware, New Jersey, Rhode Island, Maryland, and Connecticut

<sup>1</sup> Jefferson to Gallatin, Dec. 13, 1803; Works, iv. 518.

<sup>2</sup> Pichon to Talleyrand, 16 Fructidor, An xii. (Sept. 3, 1804); Archives des Aff. Étr., MSS.

were well aware that the large States would take the lion's share of power and patronage; they knew that except by accident no citizen of theirs could ever reach the Presidency; and as accident alone could give the small States a chance, accident was to them a thing of value. Whatever tended to make their votes decisive was an additional inducement with them to accept the Constitution. The Vice-presidency, as originally created, more than doubled their chance of getting the Presidency, and was invented chiefly for this purpose; but this was not all. As the number of electoral votes alone decided between President and Vice-president, a tie-vote was likely often to occur; and such a tie was decided by the House of Representatives, where another bribe was intentionally offered to the small States by giving the election to the State delegations voting as units, so that the vote of Delaware weighed as heavily as the vote of Pennsylvania.

The alarm caused by Burr's rivalry with Jefferson in February, 1801, satisfied the Republican party that such a door to intrigue ought not to be left open. Oct. 17, 1803, before the Louisiana treaty was taken up, an amendment to the Constitution was moved by friends of the Administration in the House. This, which took shape at length as the Twelfth Amendment, obliged the members of the electoral college to distinguish in their ballots the persons voted for as President and Vice-president.

Slight as this change might appear, it tended to-

ward centralizing powers hitherto jealously guarded. It swept away one of the checks on which the framers had counted to resist majority rule by the great States. Lessening the influence of the small States, and exaggerating the office of President by lowering the dignity of Vice-president, it made the processes of election and government smoother and more efficient, — a gain to politicians, but the result most feared by the States-rights school. The change was such as Pennsylvania or New York might naturally want; but it ran counter to the theories of Virginia Republicans, whose jealousy of Executive influence had been extreme.

Roger Griswold said with prophetic emphasis: <sup>1</sup> —

“The man voted for as Vice-president will be selected without any decisive view to his qualifications to administer the government. The office will generally be carried into the market to be exchanged for the votes of some large States for President; and the only criterion which will be regarded as a qualification for the office of Vice-president will be the temporary influence of the candidate over the electors of his State. . . . The momentary views of party may perhaps be promoted by such arrangements, but the permanent interests of the country are sacrificed.”

Griswold held that true reform required abolition of the office; and in this opinion his old enemy John Randolph warmly agreed. In the Senate, had the question risen as a new one, perhaps a majority might

<sup>1</sup> Dec. 8, 1803; *Annals of Congress*, 1803–1804, p. 751.

have favored abolition, for the results of retaining the office were foreseen; but the discussion was hampered by the supposed popular will and by express votes of State legislatures, and Congress felt itself obliged to follow a prescribed course. The amendment was adopted by the usual party vote; and the Federalists thenceforward were able to charge Jefferson and his party with responsibility not only for stripping the small States of an advantage which had made part of their bargain, but also for putting in the office of President, in case of vacancies, men whom no State and no elector intended for the post.

## CHAPTER VII.

THE extraordinary success which marked Jefferson's foreign relations in the year 1803 was almost equally conspicuous in domestic affairs. The Treasury was as fortunate as the Department of State. Gallatin silenced opposition. Although the customs produced two millions less than in 1802, yet when the Secretary in October, 1803, announced his financial arrangements, which included the purchase-money of fifteen million dollars for Louisiana, he was able to provide for all his needs without imposing a new tax. The treaty required the issue of six-per-cent bonds for eleven million two hundred and fifty thousand dollars, redeemable after fifteen years. These were issued; and to meet the interest and sinking fund Gallatin added from his surplus an annual appropriation of seven hundred thousand dollars to his general fund; so that the discharge of the whole debt would take place within the year 1818, instead of eighteen months earlier, as had been intended. New Orleans was expected to provide two hundred thousand dollars a year toward the interest. Of the remaining four millions, the Treasury already held half, and Gallatin hoped



to provide the whole from future surplus, which he actually did.

This was ideal success. On a sudden call, to pay out four million dollars in hard money, and add seven hundred thousand dollars to annual expenditure, without imposing a tax, and with a total revenue of eleven millions, was a feat that warranted congratulations. Yet Gallatin's success was not obtained without an effort. As usual, he drew a part of his estimated surplus from the navy. He appealed to Jefferson to reduce the navy estimates from nine hundred thousand to six hundred thousand dollars.<sup>1</sup>

"I find that the establishment now consists of the 'Constitution,' the 'Philadelphia,' each 44, and five small vessels, all of which are now out, and intended to stay the whole year, as the crew is enlisted for two years. In my opinion one half of the force, — namely, one frigate and two or three small vessels, — were amply sufficient."

Jefferson urged the reduction,<sup>2</sup> and Secretary Smith consented. The navy estimates were reduced to six hundred and fifty thousand dollars, and on the strength of this economy Gallatin made his calculation. As he probably foresaw, the attempt failed. Whether in any case Smith could have effected so great a retrenchment was doubtful; but an event occurred which made retrenchment impossible.

<sup>1</sup> Remarks on the Message, Gallatin's Writings, i. 156; Gallatin to Jefferson, Oct. 6, 1803; *ibid.*, i. 162.

<sup>2</sup> Jefferson to R. Smith, Oct. 10, 1803; Jefferson MSS.

The war with Tripoli dragged tediously along, and seemed no nearer its end at the close of 1803 than eighteen months before. Commodore Morris, whom the President sent to command the Mediterranean squadron, cruised from port to port between May, 1802, and August, 1803, convoying merchant vessels from Gibraltar to Leghorn and Malta, or lay in harbor and repaired his ships, but neither blockaded nor molested Tripoli; until at length, June 21, 1803, the President called him home and dismissed him from the service. His successor was Commodore Preble, who Sept. 12, 1803, reached Gibraltar with the relief-squadron which Secretary Gallatin thought unnecessarily strong. He had the "Constitution," of 44 guns, and the "Philadelphia," of 38; the four new brigs just built,—the "Argus" and the "Syren," of 16 guns, the "Nautilus" and the "Vixen," of 14 guns; and the "Enterprise," of 12. With this force Preble set energetically to work.

Tripoli was a feeble Power, and without much effort could be watched and blockaded; but if the other governments on the coast should make common cause against the United States, the task of dealing with them was not so easy. Morocco was especially dangerous, because its ports lay on the ocean, and could not be closed even by guarding the Straits. When Preble arrived, he found Morocco taking part with Tripoli. Captain Bainbridge, who reached Gibraltar in the "Philadelphia" August 24, some three weeks before Preble arrived, caught in the neighborhood a

Moorish cruiser of 22 guns with an American brig in its clutches. Another American brig had just been seized at Mogador. Determined to stop this peril at the outset, Preble united to his own squadron the ships which he had come to relieve, and with this combined force, — the “Constitution,” 44; the “New York,” 36; the “John Adams,” 28; and the “Nautilus,” 14, — sending the “Philadelphia” to blockade Tripoli, he crossed to Tangiers October 6, and brought the Emperor of Morocco to reason. On both sides prizes and prisoners were restored, and the old treaty was renewed. This affair consumed time; and when at length Preble got the “Constitution” under way for the Tripolitan coast, he spoke a British frigate off the Island of Sardinia, which reported that the “Philadelphia” had been captured October 21, more than three weeks before.

The loss greatly embarrassed Preble. The “Philadelphia” was, next to the “Constitution,” his strongest ship. Indeed he had nothing else but his own frigate and small brigs of two and three hundred tons; but the accident was such as could not fail sometimes to happen, especially to active commanders. Bainbridge, cruising off Tripoli, had chased a Tripolitan cruiser into shoal water, and was hauling off, when the frigate struck on a reef at the mouth of the harbor. Every effort was made without success to float her; but at last she was surrounded by Tripolitan gunboats, and Bainbridge struck his flag. The Tripolitans, after a few days’ work, floated the

frigate, and brought her under the guns of the castle. The officers became prisoners of war, and the crew, in number three hundred or more, were put to hard labor.

The affair was in no way discreditable to the squadron. Morris had been recalled in disgrace for over-caution, and Bainbridge was required to be active. The Tripolitans gained nothing except the prisoners; for at Bainbridge's suggestion Preble, some time afterward, ordered Stephen Decatur, a young lieutenant in command of the "Enterprise," to take a captured Tripolitan craft re-named the "Intrepid," and with a crew of seventy-five men to sail from Syracuse, enter the harbor of Tripoli by night, board the "Philadelphia," and burn her under the castle guns. The order was literally obeyed. Decatur ran into the harbor at ten o'clock in the night of Feb. 16, 1804, boarded the frigate within half gun-shot of the Pacha's castle, drove the Tripolitan crew overboard, set the ship on fire, remained alongside until the flames were beyond control, and then withdrew without losing a man, while the Tripolitan gunboats and batteries fired on him as rapidly as want of discipline and training would allow. Gallant and successful as the affair was, it proved only what was already well known, that the Tripolitans were no match for men like Decatur and his companions; and it left Preble, after losing in the "Philadelphia" nearly one third of his force, still strong enough to do the work that needed to be done.

The frigate had been built by the citizens of Philadelphia, and given to the government in 1799. So far as the ship was concerned, the loss was not much regretted, for the Republicans when in opposition had strenuously opposed the building of frigates, and still considered them a danger rather than a defence. Although the "Philadelphia" was the newest ship in the service, a companion to the "Constellation," the "Congress," and the "Chesapeake," she was never replaced; two 18-gun brigs, the "Hornet" and the "Wasp," were constructed instead of one 38-gun frigate; and these were the last sea-going vessels built under Jefferson's administration. The true annoyance was not that a frigate had been lost, but that the captivity and enslavement of the crew obliged Government to rescue them and to close the war, by a kind of expenditure which the Republican party disliked.

Bainbridge's report of his capture, which had happened at the end of October, 1803, was sent to Congress March 20, 1804, in the last week of the session. The President sent with it a brief Message recommending Congress to increase the force and enlarge expenses in the Mediterranean. As Gallatin never willingly allowed his own plans for the public service to be deranged, Congress adopted a new means for meeting the new expense. Although the Treasury held a balance of \$1,700,000, Gallatin would not trench upon this fund, but told Randolph, who was Chairman of the Ways and Means Committee, that

the specie in the Treasury could not be safely reduced below that amount.<sup>1</sup> He informed Joseph Nicholson that \$150,000 was the utmost sum he could spare. The sum wanted was \$750,000 per annum. A Bill was introduced which imposed an additional duty of  $2\frac{1}{2}$  per cent on all imports that paid duty *ad valorem*. These imports had been divided, for purposes of revenue, into three classes, taxed respectively  $12\frac{1}{2}$ , 15, and 20 per cent; the increase raised them to 15,  $17\frac{1}{2}$ , and  $22\frac{1}{2}$  per cent. The average *ad valorem* duty was before about  $13\frac{1}{2}$ ; the additional tax raised it above 16 per cent; and the Republicans preferred this method of raising money as in every way better than the system of internal taxation. After imposing the additional duty of  $2\frac{1}{2}$  per cent,—a duty intended to produce about \$750,000,—the Bill made of it a separate Treasury account, to be called the “Mediterranean Fund,” which was to last only as long as the Mediterranean war should last, when the  $2\frac{1}{2}$  per cent duty was to cease three months after a general peace.

The Mediterranean Fund was meant as a protest against loose expenditure,—a dike against the impending flood of extravagance. The Mediterranean war was the first failure of President Jefferson’s theory of foreign relations, and the Mediterranean Fund was the measure of the error in financial form. No reproach henceforward roused more ill temper

<sup>1</sup> Speech of John Randolph, March 22, 1804; *Annals of Congress*, 1803–1804, p. 1221.



among Republicans than the common charge that their elaborate financial precautions and formalities were a deception, and that the Mediterranean Fund was meant to conceal a change of principle and a return to Federalist practices. Even in the first words of the debate, Roger Griswold told them that their plausible special fund was "perfectly deceptive," and amounted to nothing. John Randolph retaliated by declaring that the Republican government consisted of men who never drew a cent from the people except when necessity compelled it; and Griswold could not assert, though he might even then foresee, that for ten years to come, Randolph would denounce the extravagance and waste of the men whom he thus described.

The annexation of Louisiana, the constitutional amendment in regard to the Vice-presidency, the change of financial practices foreshadowed by the Mediterranean Fund, were signs of reaction toward nationality and energy in government. Yet the old prejudices of the Republican party had not yet wholly lost their force. Especially the extreme wing, consisting of men like John Randolph and W. B. Giles, thought that a substantial reform should be attempted. Increase of power encouraged them to act. The party, stimulated by its splendid success and irresistible popularity, at length, after long hesitation, prepared for a trial of strength with the last remnant of Federalism,—the Supreme Court of the United States.

A year of truce between Congress and the Supreme Court had followed the repeal of the Judiciary Act. To prevent Chief-Justice Marshall and his associates from interfering with the new arrangements, Congress in abolishing the circuit courts in 1801 took the strong measure of suspending for more than a year the sessions of the Supreme Court itself. Between December, 1801, and February, 1803, the court was not allowed to sit. Early in February, 1803, a few days before the Supreme Court was to meet, after fourteen months of separation, President Jefferson sent an ominous Message to the House of Representatives.

“The enclosed letter and affidavits,” he said,<sup>1</sup> “exhibiting matter of complaint against John Pickering, district judge of New Hampshire, which is not within executive cognizance, I transmit them to the House of Representatives, to whom the Constitution has confided a power of instituting proceedings of redress if they shall be of opinion that the case calls for them.”

The enclosed papers tended to show that Judge Pickering, owing to habits of intoxication or other causes, had become a scandal to the bench, and was unfit to perform his duties. At first sight the House of Representatives might not understand what it had to do with such a matter; but the President's language admitted no doubt of his meaning. The Constitution said that the House of Representatives “shall

<sup>1</sup> Message of Feb. 3, 1803; *Annals of Congress, 1802-1803*, p. 460.

have the sole power of impeachment ;” and “ all civil officers of the United States shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.” Jefferson’s Message officially announced to the House the President’s opinion that Judge Pickering’s conduct was a misdemeanor within the reach of impeachment.

The House referred the Message to a committee of five, controlled by Joseph Nicholson and John Randolph. A fortnight later, Nicholson reported a resolution ordering the impeachment ; and before the session closed, the House, by a vote of forty-five to eight, adopted his report, and sent Nicholson and Randolph to the bar of the Senate to impeach Judge Pickering of high crimes and misdemeanors. March 3, 1803, the last day of the session, the two members delivered their message.

Precisely as the House, by the President’s invitation, was about to impeach Judge Pickering, the Supreme Court, through the Chief-Justice’s mouth, delivered an opinion which could be regarded in no other light than as a defiance. Chief-Justice Marshall’s own appointment had been one of those made by the last President between Dec. 12, 1800, and March 4, 1801, which Jefferson called an “ outrage on decency,”<sup>1</sup> and which, except as concerned life offices, he held to be “ nullities.” His doctrine that all appointments made by a retiring President were

<sup>1</sup> Jefferson to General Knox. March 27, 1801 ; Works, iv. 386.

nullities, unless made with the consent of the President elect, rested on the argument that the retiring President was no longer selecting his own but his successor's agents. Perhaps it involved also the favorite idea that the election of 1800 was something more than a change of Presidents,—that it was a real revolution in the principle of government. Any theory was sufficient for the Executive, but executive theories did not necessarily bind the Judiciary. Among the nominations which, like the appointment of Marshall, were obnoxious to Jefferson, was that of William Marbury as justice of the peace for five years for the District of Columbia. The nomination was sent to the Senate March 2, 1801, and was approved the next day, a few hours before Jefferson took his oath of office. The commission, regularly made out, signed by the President, countersigned by John Marshall the acting Secretary of State, and duly sealed, was left with other documents on the table in the State Department, where it came into the possession of Attorney-General Lincoln, acting as President Jefferson's Secretary of State. Jefferson, having decided that late appointments were nullities, retained Marbury's commission. Marbury, at the December term of 1801, moved the Supreme Court for a Rule to Secretary Madison to show cause why a mandamus should not issue commanding him to deliver the document. The Rule was duly served, and the case argued in December, 1801; but the Judiciary Act having suspended for fourteen months the sessions

of the Supreme Court, the Chief-Justice did not deliver his opinion until Feb. 24, 1803.<sup>1</sup>

The strongest admirers of Marshall admitted that his manner of dealing with this case was unusual. Where a judgment was to turn on a question of jurisdiction, the Court commonly considered that point as first and final. In the case of *Marbury* the Court had no original jurisdiction, and so decided; but instead of beginning at that point and dismissing the motion, the Court began by discussing the merits of the case, and ruled that when a commission had been duly signed and sealed the act was complete, and delivery was not necessary to its validity. *Marbury's* appointment was complete; and as the law gave him the right to hold for five years, independent of the Executive, his appointment was not revocable: "To withhold his commission, therefore, is an act deemed by the Court not warranted by law, but violative of a legal vested right."

This part of the decision bore the stamp of Marshall's character. The first duty of law, as he understood it, was to maintain the sanctity of pledged word. In his youth society had suffered severely from want of will to enforce a contract. The national government, and especially the judiciary, had been created to supply this want by compelling men to perform their contracts. The essence of the opinion in *Marbury's* case was that the Executive should be held to the performance of a contract, all the more because

<sup>1</sup> *Cranch's Reports*, i. 153.

of his personal repugnance. Marshall ruled that Marbury had to his commission a vested legal right of which the Executive could not deprive him ; and although the Court could not intermeddle with the prerogatives of the Executive, it might and would command a head of department to perform a duty not depending on Executive discretion, but on particular Acts of Congress and the general principles of law. The mandamus might issue, but not from the Supreme Court, which had appellate jurisdiction only. In other words, if Marbury chose to apply for the mandamus to Judge Cranch and the District Court, he might expect the success of his application.

The decision in Marbury's case naturally exasperated Jefferson ; but the chief-justice knew the point beyond which he could not go in asserting the jurisdiction of his court, and was content to leave the matter as it stood. Marbury never applied for the mandamus in the court below. The opinion in the case of Marbury and Madison was allowed to sleep, and its language was too guarded to furnish excuse for impeachment ; but while the President was still sore under the discourtesy of Marshall's law, another member of the Supreme Bench attacked him in a different way. If one judge in the United States should have known the peril in which the judiciary stood, it was Justice Samuel Chase of Maryland, who had done more than all the other judges to exasperate the democratic majority. His overbearing manners had twice driven from his court the most



eminent counsel of the circuit; he had left the bench without a quorum in order that he might make political speeches for his party; and his contempt for the popular will was loudly expressed. In the cases of *Fries* and *Callender*, in 1800, he had strained the law in order to convict for the government; and inasmuch as his energy was excess of zeal, for conviction was certain, he had exposed himself to the charge of over-officiousness in order to obtain the chief-justice's chair, which was given to *Marshall*. That he was not impeached after the change of administration proved the caution of the Republican party; but by this neglect Congress seemed to have condoned his old offences, or at least had tacitly consented to let their punishment depend on the judge's future good behavior.

Unluckily Chase's temper knew no laws of caution. He belonged to the old class of conservatives who thought that judges, clergymen, and all others in authority should guide and warn the people. May 2, 1803, barely two months after *Marshall's* defiance of the President in *Marbury's* case and the impeachment of *Pickering*, Justice Chase addressed the grand jury at Baltimore on the democratic tendencies of their local and national government.<sup>1</sup>

"Where law is uncertain, partial, or arbitrary," he said; "where justice is not impartially administered to all; where property is insecure, and the person is liable to insult and violence without redress by law, — the peo-

<sup>1</sup> *Annals of Congress*, 1804–1805, pp. 673–676.

ple are *not free*, whatever may be their form of government. To this situation I greatly fear we are fast approaching. . . . The late alteration of the Federal judiciary by the abolition of the office of the sixteen circuit judges, and the recent change in our State Constitution by the establishing of universal suffrage, and the further alteration that is contemplated in our State judiciary (if adopted) will in my judgment take away all security for property and personal liberty. The independence of the national judiciary is already shaken to its foundation, and the virtue of the people alone can restore it. . . . Our republican Constitution will sink into a mobocracy, — the worst of all possible governments. . . . The modern doctrines by our late reformers, that all men in a state of society are entitled to enjoy equal liberty and equal rights, have brought this mighty mischief upon us; and I fear that it will rapidly progress until peace and order, freedom and property, shall be destroyed.”

At the moment of Justice Chase's outburst to the Baltimore grand jury, the President was at Washington deeply interested in the Louisiana business, and unaware that on the day when Chase delivered his tirade Livingston and Monroe in Paris were signing their names to a treaty which put the Administration beyond danger from such attacks. When he saw in the newspapers a report of what had been said from the bench at Baltimore, he wrote to Joseph Nicholson, in whose hands already lay the management of Pickering's impeachment:<sup>1</sup>—

<sup>1</sup> Jefferson to Nicholson, May 13, 1803; Works, iv. 486.

“ You must have heard of the extraordinary charge of Chase to the grand jury at Baltimore. Ought this seditious and official attack on the principles of our Constitution and on the proceedings of a State to go unpunished ; and to whom so pointedly as yourself will the public look for the necessary measures ? I ask these questions for your consideration ; for myself, it is better that I should not interfere.”

“ Non-intervention,” according to Talleyrand, “ is a word used in politics and metaphysics, which means very nearly the same thing as intervention.” The event proved that non-intervention was wise policy ; but Jefferson was somewhat apt to say that it was better he should not interfere in the same breath with which he interfered. The warning that he could not officially interfere seemed to imply that the quarrel was personal ; for in the case of Pickering he had interfered with decision. If this was his view, the success of any attack upon Chase would be a gain to him, and he was so ordering as to make failure a loss only to those who undertook it. Nicholson, hot-headed though he was, did not enter readily into this hazardous venture. He reflected upon it all summer, and consulted the friends on whose support he depended. Macon wrote to him a letter of unusual length,<sup>1</sup> suggesting grave doubts whether a judge ought to be impeached for expressing to a grand jury political opinions which every man was at liberty to hold and express elsewhere, and closed by announc-

<sup>1</sup> Macon to Nicholson, Aug. 6, 1803; Nicholson MSS.

ing the conviction that if any attempt were made to impeach, Nicholson ought not to be the leader. In this opinion Macon was evidently right, for Chase's friends could not fail to suggest that Nicholson was to be rewarded by an appointment to Chase's vacant seat on the Supreme Bench ; but the House of Representatives contained no other leader whose authority, abilities, and experience warranted him in taking so prominent a part, unless it were John Randolph.

A worse champion than Randolph for a difficult cause could not be imagined. Between him and Jefferson little sympathy existed. Randolph had quarrelled with the branch of his family to which Jefferson was closely allied ; and his private feelings stood in the way of personal attachment. His intimates in Congress were not chiefly Virginians, but men like Macon of North Carolina, Joseph Bryan of Georgia, and Nicholson of Maryland,—independent followers of Virginia doctrine, who owned no personal allegiance to Jefferson. That the President should have been willing to let such a man take entire responsibility for an impeachment was natural ; but had Jefferson directed the step, he would never have selected Randolph to manage a prosecution on which the fate of his principles closely depended. Randolph was no lawyer ; but this defect was a trifling objection compared with his greater unfitness in other respects. Ill-balanced, impatient of obstacles, incapable of sustained labor or of methodical arrangement, illogical to excess, and egotistic to the verge of madness, he

was sparkling and formidable in debate or on the hustings, where he could follow the wayward impulse of his fancy running in the accustomed channels of his thought; but the qualities which helped him in debate were fatal to him at the bar.

Such was the origin of a measure which did more to define the character of the government than any other single event in Jefferson's first administration, except the purchase of Louisiana. Randolph threw himself into the new undertaking; for he sincerely believed in the justice of his cause, and was alive to the danger of leaving the Supreme Court in the hands of Marshall and men of his stamp who were determined to consolidate the government. Yet the chance of obtaining a conviction, on a charge no stronger than that of the Baltimore address, was so slight as to incline Randolph against risking it; and he decided to insure success by putting the cases of Fries and Callender in the foreground.

This was not easily done. Pickering's impeachment had been brought before the House by a Message from the President; but in Chase's case the President preferred not to take part. Randolph was forced to escape the difficulty by an awkward manœuvre. During the autumn and early winter of 1803 Congress was busy with Louisiana legislation, and had no leisure for other matters; but soon after the new year Randolph rose and said<sup>1</sup> that in the course of the last session Mr. Smilie of Pennsylvania

<sup>1</sup> Jan. 5, 1804; *Annals of Congress*, 1803-1804, p. 805.

had made some statements in regard to Justice Chase's conduct which seemed to call for notice, but that want of time had precluded action. Finding his attention thus drawn to the matter, Randolph gravely continued, he had felt it his duty to investigate Smilie's charges ; and having convinced himself that ground for impeachment existed, he asked the House to appoint a committee of inquiry. Such an introduction of a great constitutional struggle was not imposing ; but party discipline was at its highest point, and after some vigorous Federalist resistance Randolph carried his motion by a vote of eighty-one to forty. Three Northern democrats voted with the Federalists ; and although the defection seemed not serious so far as concerned the scientific Dr. Samuel L. Mitchill, whose political principles were liberal enough at all times, some importance even then attached to the vote of John Smith of New York, who was about to enter the Senate and to act as one of Chase's judges.

Meanwhile Judge Pickering's trial began. The Senate, "sitting as a Court of Impeachments," listened while Nicholson, Randolph, Rodney, and six or seven other Republican members "exhibited the grand inquest of the nation." The character of a court was taken in all the forms of summons. The Secretary of the Senate signed, and the Sergeant-at-Arms served, the summons to Judge Pickering, while the witnesses were regularly subpoenaed by the Secretary, "to appear before the Senate of the United States in their



capacity of a Court of Impeachments," and the subpoenas were served by the marshals of the district courts.

Judge Pickering was ordered to appear on the 2d of March, 1804; but when the day arrived, and the Senate was assembled, with the managers in attendance, John Pickering's name was three times called without an answer. Vice-President Burr then submitted to the Senate a petition from Jacob Pickering, son of the impeached judge, praying the court to postpone the trial that he might have time to collect evidence with the view of showing that when the alleged crimes were committed, and two years before as well as ever since, the judge was wholly deranged, incapable of transacting any kind of business which required the exercise of reason, and therefore incapable of corruption of judgment, no subject of impeachment, and amenable to no tribunal for his actions. With this petition a letter from Robert G. Harper was laid before the court, requesting to be allowed to appear on the part of the petitioner in support of the petition. Harper, having been invited to a seat within the bar, asked whether he might be heard, not as counsel for Judge Pickering, who being insane could give no authority for the purpose, but as agent for the petitioner, to ask a postponement.

The question threw all parties into agitation. The managers instantly protested that Harper in such a character could not be heard. The senators retired for consultation, and debated all day without coming

to a decision. The impeaching party dreaded the alternative to which the proof of insanity must force them,—of saying either that an insane man was responsible, or that a man mentally irresponsible might still be guilty of “high crimes and misdemeanors” for purposes of impeachment. Senator Jackson of Georgia, who had always the merit of speaking with candor, avowed the fear that presently Judge Chase’s friends would come and pretend that he too was mad;<sup>1</sup> but he could not, even with Breckinridge’s help, carry his point. The Northern democrats flinched. Six of them and three Southern senators voted with the Federalists, and admitted Harper in his volunteer character.

Harper put in his testimony, which was decisive in regard to the insanity; but when he rose to do so, the managers retired, saying that they considered themselves under no obligation to discuss a preliminary question raised by an unauthorized third party. The Senate went on with its session. The managers were obliged to maintain that insanity was no bar to impeachment, and the Northern democrats were forced to accept the doctrine.<sup>2</sup>

This view of impeachment, so far as concerned the judiciary, had strong arguments in its favor. Although the Constitution made judges’ tenure of

<sup>1</sup> Diary of J. Q. Adams, i. 299.

<sup>2</sup> Ibid., i. 301–302. Pickering to George Cabot, Jan. 29, 1804; Pickering to Theodore Lyman, Feb. 11, 1804; New England Federalism, pp. 340, 344.

office dependent on their good behavior, it provided no other means than that of impeachment for their removal. Even in England and in Massachusetts, judges could be removed by the joint action of Legislature and Executive ; but this was not the case under the Constitution of the United States. If insanity or any other misfortune was to bar impeachment, the absurdity followed that unless a judge committed some indictable offence the people were powerless to protect themselves. Even Federalists might reasonably assume that the people had never placed themselves in such a situation, but that in making their judges subject to impeachment for misdemeanors they had meant to extend the scope of impeachment, and to include within it all cases of misbehavior which might require a removal from office for the good of the public service.

This ground was fairly taken by the impeachers, though not formally expressed. When Harper had put in his evidence and retired, the Senate sent again for the managers, who occupied one day in supplying evidence, and then left their case without argument in the hands of the court. The Senate found itself face to face with an issue beyond measure delicate, which had never been discussed, but from which escape was impossible. Acquittal of Pickering would probably be fatal to the impeachment of Chase, and would also proclaim that the people could not protect themselves from misbehavior in their judicial servants. On the other hand, conviction would vio-

late the deep principle of law and justice that an insane man was not responsible for his acts, and not amenable to any earthly tribunal. Virginians like Randolph and Wilson Cary Nicholas, or John Breckinridge, were ready to make a precedent which should fix the rule that impeachment need not imply criminality, and might be the equivalent to removal by address. The Northern democrats were not unwilling to accept this view; but their consciences revolted against saying "guilty" where no guilt was implied or proved.

To escape this objection a compromise was proposed and adopted. The Federalists would have forced senators to say in their final vote that Judge Pickering was "guilty" or "not guilty" of high crimes and misdemeanors. Senator Anderson of Tennessee eluded this challenge by moving for a yea-and-nay vote on the question whether Pickering was guilty "as charged." The nine Federalists alone opposed his motion, which was at length adopted by a majority of two to one. By a vote of nineteen to seven Judge Pickering was declared "guilty as charged" in the articles of impeachment; and by a vote of twenty to six the Senate resolved that he ought to be removed from office.

Two of the Federalist senators refused to vote, on the ground that the proceedings were irregular; Senator Bradley of Vermont, Senator Armstrong of New York, and Senator Stone of North Carolina tacitly protested by absenting themselves. In a Senate of thirty-four members only twenty-six voted, and only

nineteen voted for conviction. So confused, contradictory, and irregular were these proceedings that Pickering's trial was never considered a sound precedent. That an insane man could be guilty of crime, and could be punished on *ex parte* evidence, without a hearing, with not even an attorney to act in his behalf, seemed such a perversion of justice that the precedent fell dead on the spot. Perhaps, from the constitutional point of view, a more fatal objection was that in doing what the world was sure to consider an arbitrary and illegal act, the Virginians failed to put on record the reasons which led them to think it sound in principle. In the Louisiana purchase they had acted in a way equally arbitrary, but they had given their reasons for thinking themselves in the right. In Pickering's case not a word was publicly spoken on either side; a plainly extra-constitutional act was done without recording the doctrine on which it rested.

The Republicans showed no hesitation. John Randolph's orders were obeyed without open protest. Senator Bradley of Vermont talked strongly in private against them; Senator Armstrong of New York would not support them; barely half the Senate voted in their favor; but Randolph forced his party forward without stopping to see how well his steps were taken, or how far he was likely to go. As though to intimidate the Senate, March 6, the day after the managers were defeated on the vote to hear Harper, Randolph reported to the House a resolution ordering

the impeachment of Justice Chase. March 12, the day when the Senate voted Pickering guilty, the House took up Randolph's report, and the majority, without debate, voted by seventy-three to thirty-two that Chase should be impeached. Not a Republican ventured to record a vote in the negative. The next morning Randolph again appeared at the bar of the Senate, and announced that the House of Representatives would in due time exhibit articles of impeachment against Samuel Chase.



## CHAPTER VIII.

As the year 1804 began, with Louisiana annexed, the Electoral Amendment secured, and the impeachments in prospect, the Federalists in Congress wrought themselves into a dangerous state of excitement. All agreed that the crisis was at hand; democracy had nearly reached its limit; and, as Justice Chase said from the bench, peace and order, freedom and property, would soon be destroyed. They discussed in private what should be done; and among the New Englanders almost all the men of weight were found to favor the policy of at least saving New England. Of the six Federalist senators from the Eastern States,—Plumer and Olcott of New Hampshire, Pickering and Adams of Massachusetts, Tracy and Hillhouse of Connecticut,—all but Olcott and Adams thought a dissolution of the Union inevitable.<sup>1</sup> Among the Federalist members of the House, Roger Griswold of Connecticut was the most active; he too was convinced that New England must protect herself. Samuel Hunt of New Hampshire, and Calvin Goddard of Connecticut held the same opinion. Indeed, Pick-

<sup>1</sup> *New England Federalism*, pp. 106, 146, 342, 352; *Plumer's Life of Plumer*, pp. 284–311.

ering declared that he did not know "one reflecting Nov-Anglian" who held any other.

In the month of January, 1804, despair turned into conspiracy. Pickering, Tracy, Griswold, Plumer, and perhaps others of the New England delegation, agreed to organize a movement in their States for a dissolution of the Union. They wrote to their most influential constituents, and sketched a plan of action. In a letter to George Cabot, Pickering recounted the impending dangers<sup>1</sup>:—

"By the Philadelphia papers I see that the Supreme Court judges of Pennsylvania are to be hurled from their seats, on the pretence that in punishing one Thomas Passmore for a contempt they acted illegally and tyrannically. I presume that Shippen, Yates, and Smith are to be removed by the Governor, on the representation of the Legislature. And when such grounds are taken in the National and State legislatures to destroy the rights of the judges, whose rights can be safe? Why destroy *them*, unless as the prelude to the destruction of every influential Federalist and of every man of considerable property who is not of the reigning sect? New judges, of characters and tempers suited to the object, will be the selected ministers of vengeance."

A separation, Pickering inferred, had become necessary; but when and how was it to be effected?

"If Federalism is crumbling away in New England, there is no time to be lost, lest it should be overwhelmed and become unable to attempt its own relief; its last

<sup>1</sup> Pickering to George Cabot, Jan. 29, 1804; Lodge's Cabot, p. 337.

refuge is New England, and immediate exertion perhaps its only hope. It must begin in Massachusetts. The proposition would be welcomed in Connecticut; and could we doubt of New Hampshire? But New York must be associated; and how is her concurrence to be obtained? She must be made the centre of the confederacy. Vermont and New Jersey would follow of course, and Rhode Island of necessity. Who can be consulted, and who will take the lead? The legislatures of Massachusetts and Connecticut meet in May, and of New Hampshire in the same month, or June. The subject has engaged the contemplation of many. The Connecticut gentlemen have seriously meditated upon it. . . . Tracy has written to several of his most distinguished friends in Connecticut, and may soon receive their answers. R. Griswold, examining the finances, has found that the States above mentioned, to be embraced by the Northern confederacy, now pay as much or more of the public revenues as would discharge their share of the public debts due those States and abroad, leaving out the millions given for Louisiana."

Roger Griswold wrote a few weeks afterward to Oliver Wolcott in similar terms:<sup>1</sup> —

"The project which we had formed was to induce, if possible, the legislatures of the three New England States who remain Federal to commence measures which should call for a reunion of the Northern States. The extent of those measures, and the rapidity with which they shall be followed up, must be governed by circum-

<sup>1</sup> Roger Griswold to Oliver Wolcott, March 11, 1804; Hamilton's History of the Republic, vii. 781; New England Federalism, p. 354.

stances. The magnitude and jealousy of Massachusetts would render it necessary that the operation should be commenced there. If any hope can be created that New York will ultimately support the plan, it may perhaps be supported."

The first action, said he, must come from the Legislature of Massachusetts, which was not yet elected, but would meet early in June. Connecticut and New Hampshire were to follow; and to Pickering's sanguine mind the Northern Confederacy seemed already established. "The people of the East," he said, "cannot reconcile their habits, views, and interests with those of the South and West. The latter are beginning to rule with a rod of iron."

Pickering knew that the Federalist majority in Massachusetts was none too great. The election in May, four months later, showed a Federalist vote of 30,000 against a Republican minority of 24,000, while in the Legislature Harrison Gray Otis was chosen Speaker by 129 votes to 103. Pickering knew also that his colleague, Senator Adams, was watching his movements with increasing ill-will, which Pickering lost no chance to exasperate. Nothing could be more certain than that at the first suggestion of disunion Senator Adams and the moderate Federalists would attack the Essex Junto with the bitterness of long-suppressed hatred; and if they could not command fourteen votes in the Legislature and three thousand in the State, a great change must have occurred since the year before, when they elected Adams to the

Senate for the long term over Pickering's head. Pickering concealed his doings from his colleague; but Tracy was not so cautious. Adams learned the secret from Tracy; and the two senators from Massachusetts drew farther and farther apart, in spite of the impeachments, which tended to force them together.

The Essex Junto, which sent Pickering to Washington, and to which he appealed for support, read his letter with evident astonishment. George Cabot, Chief-Justice Parsons, Fisher Ames, and Stephen Higginson, who were the leaders consulted,<sup>1</sup> agreed that the scheme was impracticable; and Cabot, as gently as possible, put their common decision into words.

“All the evils you describe,” he said,<sup>2</sup> “and many more, are to be apprehended; but I greatly fear that a separation would be no remedy, because the source of them is in the political theories of our country and in ourselves. A separation at some period not very remote may probably take place,—the first impression of it is even now favorably received by many; but I cannot flatter myself with the expectation of essential good to proceed from it while we retain maxims and principles which all experience, and I may add reason too, pronounce to be impracticable and absurd. Even in New England, where there is among the body of the people more wisdom and virtue than in any other part of the United States, we are full of errors which no reasoning

<sup>1</sup> Cabot to Pickering, March 7, 1804; *New England Federalism*, p. 353.

<sup>2</sup> Cabot to Pickering, Feb. 14, 1804; *Lodge's Cabot*, p. 341.

could eradicate if there were a Lycurgus in every village. We are democratic altogether; and I hold democracy in its natural operation to be the government of the worst.

“There is no energy in the Federal party, and there could be none manifested without great hazard of losing the State government. Some of our best men in high stations are kept in office because they forbear to exert any influence, and not because they possess right principles. They are permitted to have power if they will not use it. . . . I incline to the opinion that the essential alterations which may in future be made to amend our form of government will be the consequences only of great suffering or the immediate effects of violence. If we should be made to feel a very great calamity from the abuse of power by the National Administration, we might do almost anything; but it would be idle to talk to the deaf, to warn the people of distant evils. By this time you will suppose I am willing to do nothing but submit to fate. I would not be so understood. I am convinced we cannot do what is wished; but we can do much, if we work with Nature (or the course of things), and not against her. A separation is now impracticable, because we do not feel the necessity or utility of it. The same separation then will be unavoidable when our loyalty to the Union is generally perceived to be the instrument of debasement and impoverishment. If it is prematurely attempted, those few only will promote it who discern what is hidden from the multitude.”

Cabot's letter, more clearly than any writing of Alexander Hamilton himself, expressed the philosophy and marked the tactics of their school. Neither Cabot nor Hamilton was a lively writer, and the dust



which has gathered deep on their doctrines dulls whatever brilliancy they once possessed; but this letter showed why Cabot was considered the wisest head in his party, to whose rebuke even Hamilton was forced to bow. For patient and willing students who have groped in search of the idea which, used by Hamilton and Jefferson, caused bitterer feeling and roused deeper terrors than civil war itself, Cabot's long and perhaps pedantic letter on the policy of disunion was full of meaning. "We shall go the way of all governments wholly popular,—from bad to worse,—until the evils, no longer tolerable, shall generate their own remedies." Democracy must end in a crisis, experience and reason pronounced it impracticable and absurd, Nature would in due time vindicate her own laws; and when the inevitable chaos should come, then conservative statesmanship could set society on a sound footing by limiting the suffrage to those citizens who might hold in their own right two thousand dollars value in land. Meanwhile disunion would be useless, and the attempt to bring it about would break up the Federalist party. "A war with Great Britain manifestly provoked by our rulers" was the only chance which Cabot foresaw of bringing the people of New England to a dissolution of the Union.

Pickering was not so intelligent as Cabot, Parsons, and Ames; his temper was harsher than theirs; he was impatient of control, and never forgot or wholly forgave those who forced him to follow another course

than the one he chose. Cabot's letter showed a sense of these traits ; for though it was in the nature of a command or entreaty to cease discussing disunion, if the Federalist party in Massachusetts were to be saved, it was couched in gentle language, and without affecting a tone of advice suggested ideas which ought to guide Federalists in Congress. Pickering was to wait for the crisis. Inaction was easy ; and even though the crisis should be delayed five or ten years, — a case hardly to be supposed, — no step could be taken without a blunder before the public should be ready for it. With this simple and sound principle to guide them, conservatives could not go wrong. Cabot there left the matter.

Such gentleness toward a man of Pickering's temper was a mistake, which helped to cost the life of one whom conservatives regarded as their future leader in the crisis. Pickering was restive under the sense that his friends preferred other counsellors ; whereas his experience and high offices, to say nothing of his ability, entitled him, as he thought, to greater weight in the party than Hamilton, Cabot, or Rufus King. Backed by Tracy, Griswold, and other men of standing, Pickering felt able to cope with opposition. His rough sense and democratic instincts warned him that the fine-drawn political theories of George Cabot and Theophilus Parsons might end in impotence. He could see no reason why Massachusetts, once corrupted, might not wallow in democratic iniquities with as much pleasure as

New York or Pennsylvania; and all that was worth saving might be lost before her democracy would consent to eat the husks of repentance and ask forgiveness from the wise and good. Cabot wanted to wait a few months or years until democracy should work out its own fate; and whenever the public should yearn for repose, America would find her Pitt and Bonaparte combined in the political grasp and military genius of Alexander Hamilton. Pickering, as a practical politician, felt that if democracy were suffered to pull down the hierarchy of New England, neither disunion nor foreign war, nor "a very great calamity" of any kind, could with certainty restore what had once been destroyed.

Cabot's argument shook none of Pickering's convictions; but the practical difficulty on which the home Junto relied was fatal unless some way of removing it could be invented. During the month of February, 1804, when the impeachment panic was at its height in Congress, Pickering, Tracy, and Plumer received letter after letter from New England, all telling the same story. The eminent Judge Tapping Reeve, of Connecticut, wrote to Tracy: <sup>1</sup> "I have seen many of our friends; and all that I have seen and most that I have heard from believe that we must separate, and that this is the most favorable moment." He had heard only one objection,—that the country was not prepared; but this objection,

<sup>1</sup> Tapping Reeve to Uriah Tracy, Feb. 7, 1804; Lodge's Cabot, p. 442.

which meant that the disunionists were a minority, was echoed from all New England. The conspirators dared not openly discuss the project. "There are few among my acquaintance," wrote Pickering's nephew, Theodore Lyman,<sup>1</sup> "with whom I could on that subject freely converse; there may be more ready than I am aware of." Plumer found a great majority of the New Hampshire Federalists decidedly opposed. Roger Griswold, toward the end of the session, summed up the result in his letter to Oliver Wolcott: —

"We have endeavored during this session to rouse our friends in New England to make some bold exertions in that quarter. They generally tell us that they are sensible of the danger, that the Northern States must unite; but they think the time has not yet arrived. Prudence is undoubtedly necessary; but when it degenerates into procrastination it becomes fatal. Whilst we are waiting for the time to arrive in New England, it is certain the democracy is making daily inroads upon us, and our means of resistance are lessening every day. Yet it appears impossible to induce our friends to make any decisive exertions. Under these circumstances I have been induced to look to New York."

The representatives of the wise and good looked at politics with eyes which saw no farther than those of the most profligate democrat into the morality of the game. Pickering enjoyed hearing himself called "honest Tim Pickering," as though he were willing to imply a tinge of dishonesty in others, even in the

<sup>1</sup> Theodore Lyman to Pickering, Feb. 29, 1804; Lodge's Cabot, p. 446.

Puritan society of Wenham and Salem. Griswold was to the end of his life a highly respected citizen of Connecticut, and died while governor of the State. That both these worthy men should conspire to break up the Union implied to their minds no dishonesty, because they both held that the Republican majority had by its illegal measures already destroyed the Constitution which they had sworn to support; but although such casuistry might excuse in their own consciences the act of conspiracy, neither this reasoning nor any other consistent with self-respect warranted their next step. Griswold's remark that the procrastination of New England had led him to look to New York was not quite candid; his plan had from the first depended on New York. Pickering had written to Cabot at the outset, "She must be made the centre of the confederacy." New York seemed, more than New England, unfit to be made the centre of a Northern confederacy, because there the Federalist party was a relatively small minority. If Massachusetts and Connecticut showed fatal apathy, in New York actual repulsion existed; the extreme Federalists had no following. To bring New York to the Federalism of Pickering and Griswold, the Federalist party needed to recover power under a leader willing to do its work. The idea implied a bargain and an intrigue on terms such as in the Middle Ages the Devil was believed to impose upon the ambitious and reckless. Pickering and Griswold could win their game only by bartering

their souls; they must invoke the Mephistopheles of politics, Aaron Burr.

To this they had made up their minds from the beginning. Burr's four years of office were drawing to a close. The Virginians had paid him the price he asked for replacing them in power; and had it been Shylock's pound of flesh, they could not have looked with greater care to see that Burr should get neither more nor less, even in the estimation of a hair, than the exact price they had covenanted to pay. In another year the debt would be discharged, and the Virginians would be free. Burr had not a chance of regaining a commanding place among Republicans, for he was bankrupt in private and public character. In New York the Clintons never ceased their attacks, with the evident wish to drive him from the party. Cheetham, after publishing in 1802 two heavy pamphlets, a "Narrative" and a "View," attempted in 1803 to crush him under the weight of a still heavier volume, containing "Nine Letters on the Subject of Aaron Burr's Political Defection." Nov. 16, 1803, the "Albany Register" at length followed Cheetham's lead; and nearly all the other democratic newspapers followed the "Register," abandoning Burr as a man who no longer deserved confidence.

Till near the close of 1803 the Vice-President held his peace. The first sign that he meant energetic retaliation was given by an anonymous pamphlet,<sup>1</sup>

<sup>1</sup> An Examination of the various Charges against Aaron Burr, by Aristides. December, 1803.



which won the rare double triumph of political and literary success, in which ability and ill temper seemed to have equal shares. The unexpected appearance of "Aristides" startled New York. This attack recalled the scandal which Alexander Hamilton had created four years before by his pamphlet against his own President. "Aristides" wrote with even more bitterness than Hamilton, and the ferocity of his assault on the personal and political characters of the Republican leaders made the invectives of Hamilton and Cheetham somewhat tame; but the scandal in each case was due not so much to personalities of abuse as to breaches of confidence. "Aristides" furnished to the enemies of the Clintons and Livingstons an arsenal of poisoned weapons; but what was more to the purpose, his defence of Burr was strong. That it came directly from the Vice-President was clear; but the pamphlet showed more literary ability than Burr claimed, and the world was at a loss to discover who could be held responsible for its severities. Cheetham tried in vain to pierce the incognito. Not till long afterward was "Aristides" acknowledged by Burr's most intimate friend, William Peter Van Ness.

An attempt to separate what was just from what was undeserved in Van Ness's reproaches of the Clintons and Livingstons would be useless. The Clintons and Livingstons, however unprincipled they might be, could say that they were more respectable than Burr; but though this were true so far as social

standing was concerned, they could not easily show that as a politician the Vice-President was worse than his neighbors. The New England Federalists knew well that Burr was not to be trusted, but they did not think much worse of him than they thought of De Witt Clinton, or John Armstrong, or Edward Livingston, at this moment removed from office by Jefferson for failing to account for thirty thousand dollars due to the United States Treasury. As a politician Burr had played fast and loose with all parties; but so had most of his enemies. Seeing that he was about to try another cast of the dice, all the political gamblers gathered round to help or hurt his further fortunes; and Van Ness might fairly have said that in the matter of principle or political morality, none of them could show clean hands.

Although Vice-President until March, 1805, Burr announced that he meant to offer himself as a candidate for the post of governor of New York in April, 1804. At the same time Governor Clinton privately gave warning of his own retirement. De Witt Clinton was annoyed at his uncle's conduct, and tried to prevent the withdrawal by again calling Jefferson to his aid and alarming him with fear of Burr.

“A certain gentleman was to leave this place yesterday morning,” wrote De Witt to the President.<sup>1</sup> “He has been very active in procuring information as to his probable success for governor at the next election. This,

<sup>1</sup> De Witt Clinton to Jefferson, Nov. 26, 1803; Jefferson MSS.

I believe, is his intention at present, although it is certain that if the present Governor will consent to be a candidate, he will prevail by an immense majority. . . . Perhaps a letter from you may be of singular service."

Jefferson declined to interfere, putting his refusal on the ground of Burr's candidacy.

"I should think it indeed a serious misfortune," was his reply,<sup>1</sup> "should a change in the administration of your government be hazarded before its present principles be well established through all its parts; yet on reflection you will be sensible that the delicacy of my situation, considering who may be competitors, forbids my intermeddling even so far as to write the letter you suggest. I can therefore only brood in silence over my secret wishes."

No real confidence ever existed between Jefferson and the Clintons. A few days after these letters were written, "Aristides" betrayed the secret that Governor Clinton, in the spring of 1800, declared Jefferson to be "an accommodating trimmer, who would change with times and bend to circumstances for the purposes of personal promotion." This revelation by "Aristides," supported by the names of persons who heard the remark, forced Governor Clinton into an awkward denial of the charge, and led to an exchange of letters<sup>2</sup> and to professions of confidence between him and Jefferson; but time showed that neither the Governor

<sup>1</sup> Jefferson's Writings (Ford), viii. 282.

<sup>2</sup> Jefferson to Governor Clinton, Dec. 31, 1803; Works, iv. 520.

nor his nephew loved the Virginians more than they were loved by Burr.

The threads of intrigue drew together, as they were apt to do before a general election. The last week in January came. Three days before Senator Pickering wrote his conspiracy letter to George Cabot, a letter which implied co-operation with Burr in making him governor of New York, Burr asked for a private interview with Jefferson, and formally offered him the choice between friendship or enmity. The President thought the conversation so curious that he made a note of it.

“He began,” said Jefferson,<sup>1</sup> “by recapitulating summarily that he had come to New York a stranger, some years ago; that he found the country in possession of two rich families, — the Livingstons and Clintons; . . . that since, those great families had become hostile to him and had excited the calumnies which I had seen published; that in this Hamilton had joined, and had even written some of the pieces against him. . . . He observed, he believed it would be for the interest of the Republican cause for him to retire, — that a disadvantageous schism would otherwise take place; but that were he to retire, it would be said he shrank from the public sentence, which he would never do; that his enemies were using my name to destroy him, and something was necessary from me to prevent and deprive them of that weapon, — some mark of favor from me which would declare to the world that he retired with my confidence.”

<sup>1</sup> The *Anas*, Jan. 26, 1804; Works, ix. 204.

Jefferson, with many words but with his usual courtesy, intimated that he could not appoint the Vice-President to an Executive office ; and Burr then united his intrigues with those of Pickering and Griswold. Thenceforth his chance of retaining power depended on the New York election ; and his success in this election depended on the Federalists. Before George Cabot had yet written his answer to Pickering's questions, Pickering could no longer resist the temptation to act.

The effect of what passed at Washington was instantly felt at Albany. Toward the middle of February, about three weeks after Jefferson had civilly rejected the Vice-President's advances, Burr's friends in the New York legislature announced that they should hold a caucus February 18, and nominate him as candidate for governor. The Federalists at once called a preliminary caucus to decide whether they should support Burr. Alexander Hamilton, who happened to be engaged in law business at Albany, Feb. 16, 1804, attended the Federal caucus, and used his influence in favor of the regular Clinton candidate against Burr's pretensions. The drift of his argument was given in an abstract of reasons which he drew up for the occasion.<sup>1</sup> Unfortunately the strongest of these reasons was evidently personal ; the leadership of Hamilton would not tolerate rivalry from Burr. Hamilton pointed out that Burr's elevation by the Federalists of New York would present him as their

<sup>1</sup> Hamilton's Works, vii. 851.

leader to the Federalists of New England, and would assist him to disorganize New England if so disposed; that there "the ill-opinion of Jefferson, and jealousy of the ambition of Virginia, is no inconsiderable prop of good opinions; but these causes are leading to an opinion that a dismemberment of the Union is expedient. It would probably suit Mr. Burr's views to promote this result, — to be the chief of the Northern portion; and placed at the head of the State of New York, no man would be more likely to succeed."

If the Union was to be severed, Hamilton was the intended chief of the Northern portion; but he wanted no severance that should leave the germs of the democratic disease. His philosophy was that of George Cabot, William Pitt, and Talleyrand; he waited for the whole country to come to its senses and restore sound principles, that democracy might everywhere die out or be stifled. Burr's methods were democratic, and would perpetuate in a Northern confederacy the vices of the Union; they would break up the conservative strength without weakening democracy. Within a few days the danger which Hamilton foresaw came to pass. Burr's little band of friends in the Legislature, Feb. 18, 1804, set him in nomination; and a large majority of Federalists, in defiance of Hamilton's entreaties, meant to vote for him.

As the situation became clearer, Hamilton's personal feeling became public. While at Albany, February 16, he dined with John Tayler, and at table talked of the political prospect. One of the



company, Dr. Charles D. Cooper, an active partisan, wrote an account of the conversation to a certain Mr. Brown near Albany: "General Hamilton and Judge Kent have declared, in substance, that they looked upon Mr. Burr to be a dangerous man, and one who ought not to be trusted with the reins of government." The letter was printed, and went the rounds of the press. As it roused some question and dispute, Cooper wrote again: "I could detail to you a still more despicable opinion which General Hamilton has expressed of Mr. Burr." This letter also was printed; the "Albany Register" of April 24 contained the correspondence.

The news of Burr's nomination reached Washington at the moment when Pickering and Tracy received answers to their disunion scheme; and it served to keep them steady to their plan. The Federalists, who professed to consider Hamilton their leader, seldom followed his advice; but on this occasion they set him somewhat unkindly aside. Too much in awe of Hamilton to say directly to his face that he must be content with the place of Burr's lieutenant, they wrote letters to that effect which were intended for his eye.

Of all Federalist leaders, moderate and extreme, Rufus King, who had recently returned from London, stood highest in the confidence of his party. He was to be the Federalist candidate for Vice-President; he had mixed in none of the feuds which made Hamilton obnoxious to many of his former friends; and while

King's manners were more conciliatory, his opinions were more moderate, than those of other party leaders. To him Pickering wrote, March 4, 1804, in a tone of entreaty:—

“I am disgusted with the men who now rule, and with their measures. At some manifestations of their malignancy I am shocked. The cowardly wretch at their head, while like a Parisian revolutionary monster prating about humanity, would feel an infernal pleasure in the utter destruction of his opponents.”

After avowing his hopes of disunion, Pickering next touched the New York election:<sup>1</sup>—

“The Federalists here in general anxiously desire the election of Mr. Burr to the chair of New York, for they despair of a present ascendancy of the Federalist party. Mr. Burr alone, we think, can break your democratic phalanx, and we anticipate much good from his success. Were New York detached, as under his administration it would be, from the Virginia influence, the whole Union would be benefited. Jefferson would then be forced to observe some caution and forbearance in his measures. And if a separation should be deemed proper, the five New England States, New York, and New Jersey would naturally be united.”

Rufus King was as cautious as Pickering was indiscreet. He acknowledged this letter in vague terms of compliment,<sup>2</sup> saying that Pickering's views “ought

<sup>1</sup> Pickering to Rufus King, March 4, 1804; Lodge's Cabot, p. 447.

<sup>2</sup> Rufus King to Pickering, March 9, 1804; Lodge's Cabot, p. 450.

to fix the attention of the real friends of liberty in this quarter of the Union, and the more so as things seem to be fast advancing to a crisis." Even King's cool head was possessed with the thought which tormented Hamilton, Cabot, Ames, Pickering, Griswold, and Tracy, — the crisis which was always coming, and which, in the midst of peace, plenty, and contentment such as a tortured world had seldom known, overhung these wise and virtuous men like the gloom of death.

A week later Roger Griswold followed Pickering's example by writing to another of Hamilton's friends, Oliver Wolcott, who apparently sent the letter to Hamilton.<sup>1</sup> A Congressional caucus, February 25, nominated George Clinton as the Republican candidate for Vice-President by sixty-five votes against forty-one, — Burr's friends absenting themselves. This nomination showed some division between the Northern and Southern democrats; but Griswold rightly argued that nothing could be done in Congress, — the formation of a Northern interest must begin at home, and must find its centre of union in Burr. The arguments for this course were set forth with entire candor.

"I have wished to ascertain," wrote Griswold, "the views of Colonel Burr in relation to the general government; but having had no intimacy with him myself, and finding no one on the spot calculated, or indeed author-

<sup>1</sup> Roger Griswold to Oliver Wolcott, March 11, 1804; Hamilton's History, vii. 781; New England Federalism, p. 354.

ized, to require an explanation, I have obtained but little information. He speaks in the most bitter terms of the Virginia faction, and of the necessity of a union at the northward to resist it; but what the ultimate objects are which he would propose, I do not know. It is apparent that his election is supported in New York on the principle of resisting Virginia and uniting the North; and it may be presumed that the support given to him by Federal men would tend to reconcile the feelings of those democrats who are becoming dissatisfied with their Southern masters. But it is worthy of great consideration whether the advantage gained in this manner will not be more than counterbalanced by fixing on the Northern States a man in whom the most eminent of our friends will not repose confidence. If Colonel Burr is elevated in New York to the office of governor by the votes of Federalism, will he not be considered, and must he not in fact become, the head of the Northern interest? His ambition will not suffer him to be second, and his office will give him a claim to the first rank."

Having proposed this question, Griswold argued it as one in which the interests of New York must yield to the larger interests behind, and decided that "unpleasant as the thing may be," Burr's election and consequent leadership of the Federalist party was "the only hope which at this time presents itself of rallying in defence of the Northern States. . . . What else can we do? If we remain inactive, our ruin is certain. Our friends will make no attempts alone. By supporting Mr. Burr we gain some support, although it is of a doubtful nature, and of which,

God knows, we have cause enough to be jealous. In short, I see nothing else left for us."

Had this been all, though it was a rude blow to Hamilton, it might have passed as a difference of opinion on a point of party policy; but Griswold's object in writing these excuses was to explain that he had already done more, and had even entered into personal relations with Colonel Burr in view of a bargain. What this bargain was to be, Griswold explained:—

"I have engaged to call on the Vice-President as I pass through New York. The manner in which he gave me the invitation appeared to indicate a wish to enter upon some explanation. He said he wished very much to see me, and to converse, but his situation in this place did not admit of it, and he begged me to call on him at New York. This took place yesterday in the library. Indeed, I do not see how he can avoid a full explanation with Federal men. His prospects must depend on the union of the Federalists with his friends, and it is certain that his views must extend much beyond the office of governor of New York. He has the spirit of ambition and revenge to gratify, and can do but little with his 'little band' alone."

Even George Cabot deserted Hamilton, and wrote from Boston to Rufus King a long letter, in the tone of indolent speculation which irritated restless fighters like Pickering and Griswold:<sup>1</sup>—

"An *experiment* has been suggested by some of our friends, to which I object that it is impracticable, and

<sup>1</sup> George Cabot to Rufus King, March 17, 1804; Lodge's Cabot, p. 345.

if practicable would be ineffectual. The thing proposed is obvious and natural; but it would now be thought too bold, and would be fatal to its advocates as public men; yet the time *may* soon come when it will be demanded by the people of the North and East, and then it will unavoidably take place."

He explained his favorite thesis, — the last resource of failing protestants, — that things must be worse before they were better; but closed by wishing success to Burr. "I should rejoice to see Burr win the race in your State, but I cannot approve of aid being given him by any of the *leading* Federalists."

Ten days later, March 27, Congress adjourned; and thenceforward the intrigue centred about Burr and Hamilton in New York. No sooner did Griswold reach that city, on his way from Washington to Connecticut, than he kept his engagement with Burr, and in a conversation, April 4, Burr cautiously said <sup>1</sup> that in his present canvass "he must go on democratically to obtain the government; that if he succeeded, he should administer it in a manner that would be satisfactory to the Federalists. In respect to the affairs of the nation, Burr said that the Northern States must be governed by Virginia, or govern Virginia, and that there was no middle course; that the democratic members of Congress from the East were in this sentiment, — some of those from New York, some of the leaders in Jersey, and likewise in

<sup>1</sup> Hamilton's History, vii. 787; King's Life of Rufus King, iv. 356.



Pennsylvania." Further than this he would not go; and Griswold contented himself with such vague allurements.

On the other hand, Rufus King's library was the scene of grave dissensions. There Pickering went, April 8, to urge his scheme of disunion, and retired on the appearance of his colleague, Senator Adams, who for the first and last time in his life found himself fighting the battle of Alexander Hamilton, whom he disliked as decidedly as Pickering professed to love him. As the older senator left the house at his colleague's entrance, King said to Adams:<sup>1</sup> "Colonel Pickering has been talking to me about a project they have for a separation of the States and a Northern Confederacy; and he has also been this day talking of it with General Hamilton. Have you heard anything of it at Washington?" Adams replied that he had heard much, but not from Colonel Pickering. "I disapprove entirely of the project," said King; "and so, I am happy to tell you, does General Hamilton."

The struggle for control between Hamilton and the conspirators lasted to the eve of the election,—secret, stifled, mysterious; the intrigue of men afraid to avow their aims, and seeming rather driven by their own passions than guided by the lofty and unselfish motives which ought to inspire those whom George Cabot emphatically called the *best*! The result was a drawn battle. Hamilton prevented leading Federal-

<sup>1</sup> New England Federalism, p. 148.

ists from open committal of the party, but he could not prevent the party itself from voting for Burr. The election took place April 25, 1804; and although Burr succeeded in carrying to the Federalists a few hundred voters in the city of New York, where his strength lay, giving him there a majority of about one hundred in a total vote of less than three thousand, he polled but about twenty-eight thousand votes in the State against thirty-five thousand for the Clinton candidate. The Federalists gained nothing by supporting him; but only a small portion of the party refused him their aid.

The obstinacy of Pickering and Griswold in pressing Burr on the party forced Hamilton to strain his strength in order to prevent what he considered his own humiliation. That all Hamilton's doings were known to Burr could hardly be doubted. When the election closed, a new era in Burr's life began. He was not a vindictive man, but this was the second time Hamilton had stood in his way and vilified his character. Burr could have no reason to suppose that Hamilton was deeply loved; for he knew that four fifths of the Federal party had adopted his own leadership when pitted against Hamilton's in the late election, and he knew too that Pickering, Griswold, and other leading Federalists had separated from Hamilton in the hope of making Burr himself the chief of a Northern confederacy. Burr never cared for the past,—the present and future were his only thought; but his future in politics depended on his breaking

somewhere through the line of his personal enemies ; and Hamilton stood first in his path, for Hamilton would certainly renew at every critical moment the tactics which had twice cost Burr his prize.

Pickering and Griswold saw their hopes shattered by the result of the New York election. They gained at the utmost only an agreement to hold a private meeting of leading Federalists at Boston in the following autumn ;<sup>1</sup> and as Hamilton was to be present, he probably intended to take part only in order to stop once for all the intrigues of these two men. Such an assemblage, under the combined authority of Cabot, King, and Hamilton, could not have failed to restore discipline.

Nearly two months passed after the New York election, when, on the morning of June 18, William P. Van Ness, not yet known as "Aristides," appeared in Hamilton's office. He brought a note from Vice-President Burr, which enclosed newspaper-cuttings containing Dr. Cooper's report of Hamilton's "despicable" opinion of Burr's character. The paragraph, Burr said, had but very recently come to his knowledge. "You must perceive, sir, the necessity of a prompt and unqualified acknowledgment or denial of the use of any expression which would warrant the assertions of Dr. Cooper." General Hamilton took two days to consider the subject ; and then replied in what Burr thought an evasive manner, but closed with two lines of defiance : "I trust on more reflec-

<sup>1</sup> Life of Plumer, p. 299.

tion you will see the matter in the same light with me; if not, I can only regret the circumstance, and must abide the consequences.”<sup>1</sup>

These concluding words were the usual form in which men expressed themselves when they intended to accept a challenge to a duel. At first sight, no sufficient reason for accepting a challenge was shown by Hamilton's letter, which disavowed Dr. Cooper's report so far as Burr was warranted in claiming disavowal. Hamilton might without impropriety have declined to give further satisfaction. In truth, not the personal but the political quarrel drew him into the field; he knew that Burr meant to challenge, not the man, but the future political chief, and that an enemy so bent on rule must be met in the same spirit. Hamilton fought to maintain his own right to leadership, so rudely disputed by Burr, Pickering, and Griswold. He devoted some of his moments before the duel to the task of explaining, in a formal document, that he fought only to save his political influence.<sup>2</sup> “The ability to be in future useful, whether in resisting mischief or effecting good, in those crises of our public affairs which seem likely to happen, would probably be inseparable from a conformity with public prejudice in this particular.”

Always the crisis! Yet this crisis which brought Hamilton in July to the duelling-ground at Weehawken was not the same as that which Pickering and

<sup>1</sup> Hamilton's History, vii. 806.

<sup>2</sup> Hamilton's History, vii. pp. 816-819.

Griswold had so lately tried to create. Pickering's disunion scheme came to a natural end on Burr's defeat in April. The legislatures of the three Federalist States had met and done nothing; all chance of immediate action was lost, and all parties, including even Pickering and Griswold, had fallen back on their faith in the "crisis"; but the difference of opinion between Hamilton and the New Englanders was still well defined. Hamilton thought that disunion, from a conservative standpoint, was a mistake; nearly all the New Englanders, on the contrary, looked to ultimate disunion as a conservative necessity. The last letter which Hamilton wrote, a few hours before he left his house for the duelling-ground, was a short and earnest warning against disunion, addressed to Theodore Sedgwick, one of the sternest Massachusetts Federalists of Pickering's class.<sup>1</sup>

"Dismemberment of our empire," said Hamilton, "will be a clear sacrifice of great positive advantages, without any counterbalancing good; administering no relief to our real disease, which is *democracy*, — the poison of which, by a subdivision, will only be the more concentrated in each part, and consequently the more virulent."

The New Englanders thought this argument unsound, as it certainly was; for a dissolution of the American Union would have struck a blow more nearly fatal to democracy throughout the world than any other "crisis" that man could have compassed. Yet the argument showed that had Hamilton sur-

<sup>1</sup> Hamilton to Sedgwick, July 10, 1804; Works, vi. 567.

vived, he would probably have separated from his New England allies, and at last, like his friends Rufus King and Oliver Wolcott, would have accepted the American world as it was.

The tragedy that actually happened was a fitter ending to this dark chapter than any tamer close could have been. Early on the morning of July 11, in the brilliant sunlight of a hot summer, the two men were rowed to the duelling-ground across the river, under the rocky heights of Weehawken, and were placed by their seconds face to face. Had Hamilton acted with the energy of conviction, he would have met Burr in his own spirit; but throughout this affair Hamilton showed want of will. He allowed himself to be drawn into a duel, but instead of killing Burr he invited Burr to kill him. In the paper Hamilton left for his justification, he declared the intention to throw away his first fire. He did so. Burr's bullet passed through Hamilton's body. The next day he was dead.

As the news spread, it carried a wave of emotion over New England, and roused everywhere sensations strangely mixed. In New York the Clinton interest, guided by Cheetham, seized the moment to destroy Burr's influence forever. Cheetham affected to think the duel a murder, procured Burr's indictment, and drove him from the State. Charges were invented to support this theory, and were even accepted as history. In the South and West, on the other hand, the duel was considered as a simple "affair of honor," in which



Burr appeared to better advantage than his opponent. In New England a wail of despair arose. Even the clergy, though shocked that Hamilton should have offered the evil example of duelling, felt that they had lost their champion and sword of defence. "In those crises of our public affairs which seemed likely to happen," Hamilton's genius in council and in the field had been their main reliance; he was to be their Washington, with more than Washington's genius,—their Bonaparte, with Washington's virtues. The whole body of Federalists, who had paid little regard to Hamilton's wishes in life, went into mourning for his death, and held funeral services such as had been granted to no man of New England birth. Orators, ministers, and newspapers exhausted themselves in execration of Burr. During the whole summer and autumn, undisturbed by a breath of discord or danger, except such as their own fears created, they bewailed their loss as the most fatal blow yet given to the hopes of society.

The death of Hamilton cleared for a time the murky atmosphere of New York and New England politics. Pickering and Griswold, Tracy and Plumer, and their associates retired into the background. Burr disappeared from New York, and left a field for De Witt Clinton to sacrifice in his turn the public good to private ambition. The bloody feuds of Burr's time never again recurred. The death of Hamilton and the Vice-President's flight, with their accessories of summer-morning sunlight on rocky and wooded

heights, tranquil river, and distant city, and behind all, their dark background of moral gloom, double treason, and political despair, still stand as the most dramatic moment in the early politics of the Union.

## CHAPTER IX.

PRESIDENT JEFFERSON was told from day to day of the communications that passed between Burr and the Connecticut Federalists. Of all members of the Government, the most active politician was Gideon Granger, the Postmaster-General, whose "intimacy with some of those in the secret," as Jefferson afterward testified, gave him "opportunities of searching into their proceedings."<sup>1</sup> Every day during this period Granger made a confidential report to the President; and at the President's request Granger warned De Witt Clinton of Burr's intrigues with the Federalists. What passed in Rufus King's library and in Burr's private room seemed known at once by Granger, and was reported within a few days to Jefferson, who received the news with his innate optimism, warranted by experience.<sup>2</sup>

"It will be found in this, as in all other similar cases, that crooked schemes will end by overwhelming their authors and coadjutors in disgrace, and that he alone who walks strict and upright, and who in matters of opinion

<sup>1</sup> Jefferson to Granger, March 9, 1814; Works, vi. 329.

<sup>2</sup> Jefferson to Granger, April 16, 1804; Works, iv 542.

will be contented that others should be as free as himself, and acquiesce when his opinion is fairly overruled, will attain his object in the end."

If Jefferson and his Virginia friends in 1798, when their own opinions were overruled, had expressed the idea of acquiescence as strongly, the nation might perhaps have been saved the necessity of proving later the truth of his words; but Jefferson could afford to treat with contempt the coalition between Burr and Pickering, because, as he wisely said, it had no cohesive force to hold it together, no common principle on which to rest. When Burr's defeat in April and Hamilton's death in July dissolved the unnatural connection, Jefferson let the secret die; he wanted no scandal. He stood a little in awe of the extreme Federalists, whom he called incurables, and was unwilling to exasperate them without an object.

The Administration had every reason to rejoice that Burr's factious influence in the State of New York was at an end; for other causes of anxiety gave the President more personal annoyance. The strength of the Republican party lay in the alliance between Virginia and Pennsylvania. So long as these two central States, with their forty members of Congress, remained harmonious, nothing could shake Jefferson's power; but any discord which threatened his control of Pennsylvania caused him anxiety. Hardly had Burr's schism been checked in New York by a succession of measures as energetic as De Witt Clinton could persuade Jefferson to adopt, when a

schism, that threatened greater mischief, broke out in Pennsylvania.

In this State no social hierarchy existed such as governed New England, nor were rich families with political followings to be found there, as in New York; but instead, Duane's "Aurora" shone without break or bar over one broad democratic level. Duane was represented in Congress by Michael Leib; while over the State Legislature his influence was complete. In Jefferson's Cabinet Pennsylvania was represented by Gallatin, who had little sympathy with the "Aurora," and began his administration of the finances by resisting Duane's demand for Federal patronage.

"The thirst for offices," to use Gallatin's own words,<sup>1</sup> "too much encouraged by Governor McKean's first measures, created a schism in Philadelphia as early as 1802. Leib, ambitious, avaricious, envious, and disappointed, blew up the flame, and watched the first opportunity to make his cause a general one. The vanity, the nepotism, and the indiscretion of Governor McKean afforded the opportunity. Want of mutual forbearance among the best-intentioned and most respectable Republicans has completed the schism. Duane, intoxicated by the persuasion that he alone had overthrown Federalism, thought himself neither sufficiently rewarded nor respected; and possessed of an engine which gives him an irresistible control over public opinion, he easily gained the victory for his friends."

In the spring of 1803 the "Aurora" began to attack Gallatin and Madison, under cover of devotion to

<sup>1</sup> Gallatin to Badollet, Oct. 25, 1805; Adams's Gallatin, p. 331.

the President; and from this beginning Duane went on to quarrel with Governor McKean and Alexander J. Dallas, the district attorney.

The impeachment of Judge Pickering in Congress followed and in some degree imitated an impeachment by the Pennsylvania Legislature of Judge Addison, one of the five president judges of the Common Pleas. With the help of Dallas and Governor McKean, the Legislature in January, 1803, removed Judge Addison; then, inspired by Randolph's attack on Justice Chase, they turned against their Supreme Court, — at one sweep impeaching three of the judges, and addressing the Governor for the removal of H. H. Brackenridge, the fourth, because he insisted on making common cause with his associates. The alleged ground of impeachment was the arbitrary committal of a suitor for contempt of court; the real motive seemed rather to be a wish for legal reforms such as society was too unskilful to make for itself, and lawyers were slow to begin. Throughout America the bar was a sort of aristocracy, conservative to a degree that annoyed reformers of every class. Jefferson and his party raised one Republican lawyer after another to the bench, only to find that when their professions of political opinion were tested in legal form, the Republican judge rivalled Marshall in the Federalist and English tendencies of his law. The bar chose to consider the prejudice of society against their caste unreasonable; but the bar was itself somewhat unreasonable to require that an untrained and ill-led



body of country farmers and local politicians should say precisely what legal reform they wanted, or know exactly what was practicable.

No sooner did the Pennsylvania Legislature begin to pull in pieces the judicial system of the State, and persecute the legal profession, than Dallas, McKean, and all the educated leaders of the Republican party broke from the mass of their followers, and attempted to check their violence. Governor McKean stopped with his veto certain measures which the Legislature had approved, and he declined to remove Judge Brackenridge when the Legislature asked him to do so. Dallas became counsel for the impeached judges. Duane and Leib raged against McKean and Dallas; a large majority of Pennsylvania Republicans followed the "Aurora;" Gallatin lost control over his State, and saw himself threatened, like his friend Dallas, with ostracism; while the outside world, roused by the noise of this faction-fight, asked what it meant, and could not understand the answer. The Federalists alone professed to explain the mystery which perplexed people less wise than themselves; they had said from the beginning that the democrats had neither virtue nor understanding to carry on the government, and must bring about a crisis at last.

After the excitement of Burr's intrigues and Hamilton's death subsided, leaving the politics of New York in comparative repose, the autumn elections in Pennsylvania began to disturb Jefferson's temper.

“Thank Heaven!” wrote Dallas to Gallatin, in October,<sup>1</sup> “our election is over! The violence of Duane has produced a fatal division. He seems determined to destroy the Republican standing and usefulness of every man who does not bend to his will. He has attacked me as the author of an address which I never saw till it was in the press. He menaces the Governor; you have already felt his lash; and I think there is reason for Mr. Jefferson himself to apprehend that the spirit of Callender survives.”

A struggle took place over the re-election of Leib to Congress, which the “Aurora” carried by a few hundred votes. Republicans of Dallas’s kind, who would not support Leib, were nicknamed “Quids” by Duane, after the *tertium quid*, which was worth not even a name. At least three fourths of the Republican party followed the “Aurora,” and left the “Quids” in the solitude of deserted leaders.

Jefferson’s social relations were wholly with Gallatin, McKean, and Dallas, but his political strength depended on the popular vote, which followed Duane and Leib. At one moment he wanted to reason with Duane, but by Gallatin’s advice gave up this idea. At length he temporized, became neutral, and left Gallatin and Dallas to their own resources.

“I see with infinite pain,” he wrote to Dr. Logan,<sup>2</sup> “the bloody schism which has taken place among our friends in Pennsylvania and New York, and will probably take place in other States. The main body of both

<sup>1</sup> Dallas to Gallatin, Oct. 16, 1804; Adams’s Gallatin, p. 326.

<sup>2</sup> Jefferson to Dr. Logan, May 11, 1805; Works, iv. 575.

sections mean well, but their good intentions will produce great public evil. The minority, whichever section shall be the minority, will end in coalition with the Federalists and some compromise of principle. Republicanism will thus lose, and royalism gain, some portion of that ground which we thought we had rescued to good government."

The idea that "royalism" could in any case gain support among the factions of Pennsylvania democrats was one which could have occurred only to Jefferson, who saw monarchy, as the New Englanders saw Antichrist, in every man who opposed him in politics. Apart from this trick of words, Jefferson's theory of his own duties failed to satisfy his followers. Dallas was disgusted at the situation in which he found himself left.

"It is obvious to me,"<sup>1</sup> he wrote to Gallatin soon after the schism broke out, "that unless our Administration take decisive measures to discountenance the factious spirit that has appeared; unless some principle of political cohesion can be introduced into our public councils as well as at our elections; and unless men of character and talents can be drawn from professional and private pursuits into the legislative bodies of our governments, Federal and State,—the empire of Republicanism will moulder into anarchy, and the labor and hope of our lives will terminate in disappointment and wretchedness. . . . At present we are the slaves of men whose passions are the object of all their actions,—I

<sup>1</sup> A. J. Dallas to Gallatin, Jan. 16, 1805; Adams's Gallatin, p. 327.

mean your Duanes, Cheethams, Leibs, etc. They have the press in their power; and though we may have virtue to assert the liberty of the press, it is too plain that we have not spirit enough to resist the tyranny of the printers."

This last sharp sentence aimed at the President, who displeased Dallas by showing too evident a wish not to offend Duane. "The duty of an upright Administration," Jefferson told Dr. Logan,<sup>1</sup> "is to pursue its course steadily, to know nothing of these family dissensions, and to cherish the good principles of both parties." Had the President followed this duty in the case of Burr, the triumph of De Witt Clinton and Cheetham would have been more difficult than it was; but the President feared Burr the less because Burr's newspaper, the "Morning Chronicle," was respectable, while the "Aurora" was unscrupulous, and to cherish Duane's principles, whether good or bad, was the only way of escaping the lash of his tongue. Jefferson chose the path of caution in refusing to sustain Dallas and the "Quids" against the party and the Legislature; but during the rest of his term he was forced to endure Duane's attachment, and to feel that Madison and Gallatin were sacrificed to his own safety. Duane never hesitated to assert that he was in Jefferson's confidence and was acting in his interests,<sup>2</sup> and commonly he or some of his friends

<sup>1</sup> Jefferson to Dr. Logan, May 11, 1805; Works, iv. 575.

<sup>2</sup> Dallas to Gallatin, April 4, 1805; April 21, 1811; Adams's Gallatin, pp. 333, 439.

could show a recent letter in the President's handwriting which gave color to their assertion.

The Pennsylvania schism was not serious. Governor McKean and Dallas were alarmed when they saw the democratic system blundering in its rude way, without taking sound advice or heeding trained lawyers; but only the Federalists believed in a crisis. Society went undisturbed to its daily duties in spite of Duane's outcries and Dallas's grumbling. The only result of the Pennsylvania schism was to check the aggressive energy of the democratic movement by alarming a few of the older leaders and causing them to halt. From the day of Jefferson's inauguration this tendency toward reaction had begun, and it developed in party schisms which could not fail to hurry the process. The symptom, however unpleasant to old political leaders such as Jefferson, McKean, and Dallas, who liked the quiet enjoyment of power, was healthy for society at large; but no one could fail to be struck by the contrast which in this respect was offered by the two great sections of the country. While the mobile, many-sided, restless democracy of New England, New York, and Pennsylvania exhibited its faults, and succeeded, with much personal abuse, in thrusting out the elements foreign to its character which retarded its movement, the society of the Southern States was classically calm. Not a breath disturbed the quiet which brooded over the tobacco and cotton fields between the Potomac and Florida. A Presidential election

was taking place, but the South saw only one candidate. The State legislatures quietly chose electors to vote for Jefferson and Clinton. From the St. Mary's to the Potomac and the Ohio, every electoral voice was given to Jefferson. With some surprise the public learned that Maryland gave two of eleven votes to C. C. Pinckney, who received also the three votes of Delaware. This little State even went back on its path, repudiated Cæsar A. Rodney, and returned to its favorite Bayard, who was sent by a handsome majority to his old seat in the House of Representatives. Broken for an instant only by this slight check, the tide of democratic triumph swept over the States of Pennsylvania, New Jersey, and New York, and burst upon Connecticut as though Jefferson's hope of dragging even that State from its moorings were at length to be realized. With difficulty the Connecticut hierarchy held its own; and with despair after the torrent passed by, it looked about and found itself alone. Even Massachusetts cast 29,310 votes for Jefferson, against 25,777 for Pinckney.

Rarely was a Presidential election better calculated to turn the head of a President, and never was a President elected who felt more keenly the pleasure of his personal triumph. At the close of four years of administration, all Jefferson's hopes were fulfilled. He had annihilated opposition. The slanders of the Federalist press helped to show that he was the idol of four fifths of the nation. He received one hun-



dred and sixty-two of one hundred and seventy-six electoral votes, while in 1801 he had but seventy-three in one hundred and thirty-eight; and in the Ninth Congress, which was to meet in December, 1805, barely seven out of thirty-four senators, and twenty-five out of one hundred and forty-one representatives, would oppose his will. He described his triumph, in language studiously modest, in a letter to Volney :<sup>1</sup> —

“The two parties which prevailed with so much violence when you were here are almost wholly melted into one. At the late Presidential election I have received one hundred and sixty-two votes against fourteen only. Connecticut is still Federalist by a small majority, and Delaware on a poise, as she has been since 1775, and will be till Anglomany with her yields to Americanism. Connecticut will be with us in a short time. Though the people in mass have joined us, their leaders had committed themselves too far to retract. Pride keeps them hostile; they brood over their angry passions, and give them vent in the newspapers which they maintain. They still make as much noise as if they were the whole nation.”

Such success might have turned the head of any philosopher that ever sat on a throne. Easily elated, unwilling to forebode trouble, devoid of humor, and unable to see himself in any but the heroic light, President Jefferson basked in the sunshine of popularity and power as though it were no passing warmth such as had led scores of kings into disaster, but shone

<sup>1</sup> Jefferson to Volney, Feb. 8, 1805; Works, iv. 573.

by virtue of some democratic law which rested on truth that could never change. The White House was filled with an atmosphere of adulation. Flattery, gross as any that man could ask, was poured into the President's ear, but was as nothing compared with the more subtle flattery of the popular vote. No friend stopped him to ask how such a miraculous success had been brought about. Four years had not passed since Jefferson and his party had clamored against attempts to give energy to government; and no one could ever forget that they claimed and received power from the people in order to defend States-rights, restrict Executive influence, and correct strained constructions of the Construction. Who upheld States-rights in 1804, and complained of Executive influence and strained constructions? Certainly not Jefferson or his friends, but the monarchical Federalists, who were fit inmates for an asylum. Whenever Jefferson had occasion to discuss the aims and opinions of the two parties, he did not allude to the principles set forth in 1798; not a word was said of "strict construction." The only theories opposed to his own which he could see in the political horizon were those of a few hundred conservatives of the colonial epoch.

"What, in fact," he wrote,<sup>1</sup> "is the difference of principle between the two parties here? The one desires to preserve an entire independence of the executive and legislative branches on each other and the dependence of both on the same source, — the free election of the

<sup>1</sup> Jefferson to J. F. Mercer, Oct. 9, 1804; Works, iv. 563.

people. The other party wishes to lessen the dependence of the Executive and of one branch of the Legislature on the people, some by making them hold for life, some hereditary, and some even for giving the Executive an influence by patronage or corruption over the remaining popular branch, so as to reduce the elective franchise to its minimum."

After nearly four years of Executive authority more complete than had ever before been known in American history, Jefferson could see in himself and in his principles only a negation of Executive influence. What had become of the old radical division of parties, — the line between men who wished the national government to exercise inherent powers of sovereignty and those who held to a strict observance of powers expressly delegated by the people of the States?

Jefferson said with truth that the two old parties were almost wholly melted into one; but in this fusion his own party had shown even more willingness than its opponents to mix its principles in a useful, but not noble, amalgam. His own protests in regard to the Louisiana purchase and the branch bank at New Orleans were recorded. With such evidence on their side, the moderate Federalists who in the election of 1804 gave to Jefferson the nineteen electoral votes of Massachusetts and the seven of New Hampshire, could claim that they had altered no opinion they ever held; that the government had suffered no change in principle from what it had been under President Washington; that not a Federalist measure,

not even the Alien and Sedition laws, had been expressly repudiated; that the national debt was larger than it had ever been before, the navy maintained and energetically employed, the national bank preserved and its operations extended; that the powers of the national government had been increased to a point that made blank paper of the Constitution as heretofore interpreted by Jefferson, while the national territory, vastly more than doubled in extent, was despotically enlarged and still more despotically ruled by the President and Congress, in the teeth of every political profession the Republican party had ever made. Had this been the work of Federalists, it would have been claimed as a splendid triumph of Federalist principles; and the good sense of New England was never better shown than when Massachusetts and New Hampshire flung aside their prejudices and told Jefferson that they accepted his inaugural pledge to be a Federalist as they were Republicans.

Every Federalist who came over and every State that joined the majority weakened the relative influence of Virginia, and helped to dilute the principles of the pure Virginia school. The new democrats in New England, New York, and Ohio were Federalists in disguise, and cared nothing for fine-spun constitutional theories of what government might or might not do, provided government did what they wanted. They feared no corruption in which they were to have a part. They were in secret jealous of Virginia, and as devoted as George Cabot and Stephen Higgin-

son to the interests of commerce and manufactures. A majority of the Northern democrats were men of this kind. Their dislike of Federalists was a social rather than political feeling, for Federalist manners seemed to them a wilful impertinence; but the Varnums and Crowninshields of Massachusetts cared as little as De Witt Clinton or Aaron Burr for the notions of Speaker Macon and John Randolph. As orators and leaders the Northern democrats made a poor figure beside the Virginians; but their votes weighed more and more heavily with every succeeding Congress, and both Randolph and Macon were becoming suspicious that these votes were too apt to be cast against the wishes of Virginia.

The second session of the Eighth Congress met on the first Monday in November, as provided by a law passed in view of Judge Chase's impeachment. The President's Message, sent to Congress Nov. 8, 1804, was as usual toned to cheerful harmony. The income had reached eleven millions and a half of dollars; more than three million six hundred thousand dollars of the public debt had been discharged within the year, more than twelve millions since 1801; and the revenue was still increasing. Difficulties had risen with foreign nations, but no disturbance of the peace was to be expected. The Indians were quiet. Gunboats were in course of construction. No increase of the army was called for. Congress had only to inquire whether anything remained to be done for the public good.

The Federalists were reduced to showing that Jefferson's political success had not chastened his style; for the Message contained a number of sentences that exaggerated his peculiar faults of expression: --

“The war which was lighted up in Europe a little before our last meeting has not yet extended its flames to other nations, nor been marked by the calamities which sometimes stain the footsteps of war.”

The Federalists reasonably objected to the figure of a war which not only extended flames but also made footsteps and marked them by calamities which stained. Jefferson went on to say that he had bought from the Delaware Indians the country between the Wabash and the Ohio: —

“This acquisition is important not only for its extent and fertility, but as fronting three hundred miles on the Ohio, and near half that on the Wabash. The produce of the settled country descending those rivers will no longer pass in view of the Indian frontier but in a small portion, and with the cession heretofore made by the Kaskaskias nearly consolidates our possessions north of the Ohio in a very respectable breadth from Lake Erie to the Mississippi.”

Produce passing in view of a frontier in a portion and consolidating possessions in a breadth did not suit fastidious Federalists; nor were they satisfied with the President's closing exhortation, requesting the Legislature to inquire “whether laws are provided in all cases where they are wanting.” They enjoyed their jests at Jefferson's literary style; but with the



public the matter of the Message was more weighty than its manner. No kind of criticism had less political value than that wasted on the style of a public document.

Yet one thing was certainly wanting in this Message. No hint was given that Congress stood in danger of overstepping the limits of its powers, or would do well to return within them. This silence was not accidental; it marked the moment of separation between Jefferson and the old Republicans of 1798. Speaker Macon, John Randolph, and Joseph Nicholson soon showed that they meant to take no such view of their duties.

Hardly had legislation begun, when Randolph, November 26, made a report against the remission of duties on books imported for the use of schools and colleges. The Constitution, he said, was a grant of limited powers for general objects; its leading feature was an abhorrence of exclusive privileges; impost must be uniform; if Congress could exempt one class of the people from taxes, they might exempt other classes; and although the practice had been different, and philosophical apparatus for the use of schools was actually exempt by law, he believed that law to be unconstitutional. The doctrine, which if carried to its ultimate conclusions would have left hardly a tax on the statute-book, was accepted by the same House which had supported Randolph in defending the Louisiana purchase by arguments that, in President Jefferson's opinion, left no Constitution at all. Two

days afterward Randolph repeated the lesson, and his friends Macon and Nicholson came to his support. A Bill was before the House authorizing the corporation of Georgetown to construct a dam or causeway from Mason's Island to the shore of the Potomac, in order to scour the channel and improve navigation. Randolph affirmed that the Potomac was the joint property of Maryland and Virginia, over which Congress had no right to legislate; that the Bill authorized the corporation of Georgetown to lay a tax which would be unequal and oppressive, because all Georgetown property would not be equally benefited by deepening the harbor; and finally, "he hoped a prompt rejection of the Bill would serve as a general notice to the inhabitants of the District to desist from their daily and frivolous applications to Congress." Macon, Nicholson, and a number of the Virginians spoke earnestly in the same sense. "So long as I have the honor of a seat in the House," said Nicholson, "I will hold up my hands against any measure like the present, which would go to affect the rights of any of the States. If Congress have a right to interfere in the least with the free navigation of the Potomac, they have a right to stop it altogether." In reply to these exhortations the House passed the Bill by a vote of sixty-six to thirty-eight; and more than enough Republicans voted for it to have passed it without Federalist help.

The reason for this sudden decline of Randolph's influence was not far to seek. He was undertaking to act without concert with the President. While he

and his friends argued on the States-rights theory at one end of Pennsylvania Avenue, Jefferson at the other end said openly, to Federalists and Republicans alike, that such arguments were mere metaphysical subtleties which ought to have no weight.<sup>1</sup> The next subject in debate left no longer a doubt of the cleft opening between the old Republicans of 1798 and the Republicans of the future, with Jefferson and Madison at their head. That Randolph had determined to fight for control of the party and for the principles upon which it had come into office was clear; but the reason for the suddenness and violence of his emotion was found in the once famous story of the Yazoo Claims, which from his youth acted on his passionate temper with the force of a point of honor.

As already told, Congress seemed about to settle these claims as early as April, 1802, when the six commissioners made their Report.<sup>2</sup> John Randolph and his friends were then supreme. Dec. 30, 1803, a few days before the Federalists were startled by Randolph's demand for the impeachment of Judge Chase, the Northern democrats and the friends of Madison were surprised by a Resolution offered by Randolph excluding claimants under the Georgia grants of 1795 from any share in the proposed settlement. A few weeks later, Feb. 20, 1804, Randolph withdrew this Resolution, in order to introduce a series of declaratory Resolves, which, after reciting

<sup>1</sup> Diary of J. Q. Adams (Jan. 11, 1805), i. 331.

<sup>2</sup> See vol. i. p. 305.

the story of the Georgia grants, affirmed the right of Georgia to rescind them, and forbade the appropriation of money to the settlement of claims derived from them. March 7, 1804, he made a long and earnest speech on the subject; and after a sharp struggle in a House nearly equally divided, he succeeded in defeating action on the Bill. On the final vote of postponement, March 12, 1804, he carried fifteen members of the Virginia delegation with him. Of the three Republicans from Virginia who rejected his lead, one was John G. Jackson, brother-in-law of the Secretary of State.

From that moment Randolph's energies quickened in sympathy with old Republican principles; and when he returned to Congress in November, 1804, he and his friends began at once to take extreme ground as champions of States-rights. He lost no chance of enforcing his theories, whether in regard to exemptions from taxes, or in denying to government power to improve navigation within the District of Columbia, or in reproving the people of Georgetown for proposing to lay a general tax on their property for the betterment of their river front. He found the Administration opposed to him. "Mere metaphysical subtleties," said Jefferson. The influence of Madison was strong in favor of the Yazoo Compromise, and the Northern democrats supported the Secretary. A struggle for supremacy was imminent, and its consequences were soon felt. The impeachment of Judge Chase was Randolph's measure, and received no sup-

port from Madison. The Yazoo Compromise was Madison's measure, and its defeat was Randolph's passionate wish.

The three branches of government were likely to be at variance on a point of deep concern. No one who knew Chief-Justice Marshall could doubt that he, and the Supreme Bench with him, would hold that the State of Georgia was bound by its contract with the Land Companies. The Administration had taken the ground that the State was not bound in law, but that the United States should nevertheless make an equitable compromise with the claimants. Randolph was bent on forcing Congress to assert that a State had the right to repudiate its own acts where it was evident that these acts were against common morality or public interest; and that its decision in such a case should be final. The conflict was embittered by the peculiarities of Randolph's character. In his eyes, when such questions of honor were involved, every man who opposed him seemed base. Unfortunately the New England Mississippi Company secured the services of Gideon Granger, the Postmaster-General, as their agent; and Randolph's anger became intense when, at the close of the year 1804, he saw the Postmaster-General on the floor of the House openly lobbying for the passage of the Bill.

At length, at the end of January, 1805, the House went into committee on the Georgia claims, and Randolph for the first time displayed the full violence of his temper. Hitherto as a leader he had

been at times arrogant ; but from this moment he began the long series of personal assaults which made him famous, as though he were the bully of a race course, dispensed from regarding ordinary rules of the ring, and ready at any sudden impulse to spring at his enemies, gouging, biting, tearing, and rending his victims with the ferocity of a rough-and-tumble fight. The spectacle was revolting, but terrific ; and until these tactics lost their force by repetition, few men had the nerve and quickness to resist them with success.

“ Past experience has shown,” he cried, “ that this is one of those subjects which pollution has sanctified.” He treated the majority of the House as corruptionists, “ As if animated by one spirit, they perform all their evolutions with the most exact discipline, and march in a firm phalanx directly up to their object. Is it that men combined to effect some evil purpose, acting on previous pledge to each other, are ever more in unison than those who, seeking only to discover truth, obey the impulse of that conscience which God has placed in their bosoms ? ” He fell upon Granger : “ Millions of acres are easily digested by such stomachs. Goaded by avarice, they buy only to sell, and sell only to buy. The retail trade of fraud and imposture yields too small and slow a profit to gratify their cupidity. They buy and sell corruption in the gross.” He hinted that the Administration was to blame : “ Is it come to this ? Are heads of executive departments to be brought into this House, with all the influence and patronage attached to them, to extort



from us now what was refused at the last session of Congress?" He closed by asserting that this was the spirit of Federalism, and that Republicans who yielded to it were false to their party: "Of what consequence is it that a man smiles in your face, holds out his hand, and declares himself the advocate of those political principles to which you are also attached, when you see him acting with your adversaries upon other principles which the voice of the nation has put down, and which I did hope were buried, never to rise again in this section of the globe?" He maintained that the Federalist administrations had done no act so corrupt: "If Congress shall determine to sanction this fraud upon the public, I trust in God we shall hear no more of the crimes and follies of the former Administration. For one, I promise that my lips upon this subject shall be closed in eternal silence. I should disdain to prate about the petty larcenies of our predecessors after having given my sanction to this atrocious public robbery."

The tirade could have no other result than a personal quarrel and a party schism. Madison and the Administration had done nothing to deserve the attack, and of course could not trust Randolph again. The question whether the claimants had rights which the government would do well to compromise was for the law to decide, and was ultimately settled by Chief-Justice Marshall in their favor. The question of morality, in regard to sanctioning fraud, though a much wider issue, was not to be settled *ex parte*, but

must abide by the answer to the question of law. Only the States-rights difficulty remained ; and even on that delicate ground, although the right of Georgia to repudiate her own pledges under the plea of her own corruption were conceded, the States-rights theory could not insist that this act must bind other States, or affect any sovereignty except that which was directly involved. After the property in question had been sold to the United States government, Georgia need not prevent the purchaser from doing what it would with its own. Randolph could not make States-rights serve his whole purpose in the argument, and was obliged to rely on the charge of sanctioning corruption and fraud, — a charge irrelevant to the claim of innocent third parties like the New Englanders, unless he could prove their complicity, which was not in his power.

Randolph's harangue struck at the credit of Madison ; and the conduct of the Postmaster-General in acting as claim-agent cast a shadow of corruption over the whole government. Madison's friends were obliged to take up the challenge ; and his brother-in-law, John G. Jackson of Virginia, replied to Randolph in a speech which was thought to bear evident marks of Madison's hand. Some of Jackson's retorts carried a sting. Randolph had dwelt much on the silence and discipline of the majority. " When unprincipled men," said he, " acquire the ascendancy, they act in concert and are silent." " Silence and concert, then," retorted Jackson, " are to him proofs

of corrupt motive. Is this always a correct position? Does the gentleman recollect that measures were adopted a few years past without discussion, by my political friends in conjunction with him, who were *silent and united?*” Throughout Jackson’s speech ran a tone of irritating disregard for his colleague, “whose influence in this House is equal to the rapacity of the speculator whose gigantic grasp has been described by him as extending from the shores of Lake Erie to the mouth of the Mobile.” Whether Madison meant it or not, an impression prevailed in the House that in Jackson’s speech the Secretary of State took up Randolph’s challenge with a defiance equally strong.

Randolph returned to his charges, attacking Granger bitterly, but not yet venturing to take the single step that remained to create a Virginia feud; he left Jackson and Madison alone. He bore with something like patience the retorts which his violence drew upon him, and his self-esteem made him proof to the insults of democrats like Matthew Lyon, who thanked his Creator “that he gave me the face of a man, not that of an ape or a monkey, and that he gave me the heart of a man also.” After a long and ill-tempered debate, Feb. 2, 1805, Randolph closed by an allusion to Madison and Gallatin which implied hesitation. “When I first read their Report, I was filled with unutterable astonishment, finding men in whom I had and still have the highest confidence recommend a measure which all the facts and all the reasons they had collected opposed and unequivocally condemned.” Prudence restrained

him from making a final breach with Madison ; and perhaps he was the more cautious because he felt the danger of pressing too far his influence over Virginia sentiment which to this point supported his opposition. When the House divided, a majority of sixty-three to fifty-eight sustained the compromise, and ordered the committee of claims to report a Bill ; but in the minority Randolph found by his side every Republican member of the Virginia delegation except two, one of whom was Jackson. Even the two sons-in-law of President Jefferson voted against the Yazoo claims. So strong was the current of opinion in Virginia, that Senator Giles went about Washington<sup>1</sup> asserting that Jefferson himself would lose an election there if he were known to favor the compromise, and that Jackson would certainly be defeated. For the moment Randolph might fairly suppose that in a contest for supremacy with the Secretary of State, his own hold on Virginia was stronger than Madison's. In spite of the majority against him, he succeeded in postponing action on the Bill.

Perhaps his temper was further restrained by another motive. The trial of Judge Chase was near at hand. Within a few days after the close of the Yazoo debate, Randolph was to open the case for the managers before the Senate ; and he had reason to fear that the Northern democrats were beginning to doubt the wisdom of this Virginia scheme.

<sup>1</sup> Diary of J. Q. Adams (Feb. 1, 1805), i. 343.

## CHAPTER X.

THE schisms which characterized the last year of President Jefferson's first term increased the difficulty of convicting Justice Chase. Burr was still Vice-President, and was sure not only to preside at the trial, but also, unless conciliated, to encourage rebellion against the Virginians. He had warm friends even in the Senate; and he was observed to cultivate close social relations with John Smith, the senator from Ohio, whose vote was likely to be necessary for conviction. Although the two senators from New York were no friends of Burr, one of them, Dr. Samuel L. Mitchill, was known to oppose impeachment; and not only he, but also his colleague, another John Smith, when members of the House, voted against Randolph's motion for a committee of inquiry. Senator Bradley of Vermont privately talked with earnestness against the Pickering impeachment, and never favored that of Chase. His colleague, Israel Smith, shared his doubts. Twenty-three votes were required to convict, and the Republicans had but twenty-five senators against nine Federalists. A defection of three Republican senators

would be fatal ; but the votes of at least five were in doubt.

Randolph's attack on the Yazoo Republicans and on the friends of Madison took from them all desire to strengthen his influence ; while, as though to complicate confusion, his assault on his own party was cheered by Duane and the "Aurora," until the Pennsylvania schism seemed about to join with a Virginia schism for the overthrow of the judiciary in the first place, and of Madison and Gallatin afterward. A collapse of the Republican party was to be feared. In the success of impeachment, the interests of Duane and Randolph were closely connected, and Duane controlled Pennsylvania as Randolph ruled Virginia. Everything tended to show that Chase's conviction would add to the power already in the hands of these two men ; and hands less fitted to guide a government or less trusted by moderate Republicans could hardly be found in either party.

Duane's support of Randolph was the warmer because his own attack on the judiciary failed. The Pennsylvania judges were brought to trial in January, 1805. The managers for the Legislature, knowing no law themselves and unable to persuade any competent Pennsylvania lawyer to act as counsel, sent for Cæsar A. Rodney from Delaware to conduct the case. So important did Randolph and Nicholson at Washington think the success of the Pennsylvania impeachment, that at the end of December, 1804, they allowed Rodney to drop his work as member of Con-



gress and manager of Chase's trial, in order to hurry to Lancaster and do battle with Dallas, Jefferson's district attorney, who was defending the judges. After a long struggle, Jan. 28, 1805, the Senate at Lancaster came to a vote, and Rodney was beaten. Thirteen senators declared the judges guilty, — three less than the required two thirds.

This defeat of the impeachers occurred the day before Randolph attacked Granger and the Yazoo claims in Congress. During the week that preceded Chase's trial, Randolph's bad management or ill-luck seemed accumulating disasters on his head. He roused needless hatred against himself in Congress; his alliance with Duane was unsuccessful; he exhausted his strength in fighting the Yazoo Bill, and was in no condition of mind or body to meet the counsel of Judge Chase.

Neither the Administration nor his Virginia friends failed to support Randolph. They made efforts to conciliate Burr, whose opposition to the impeachment was most feared. Jefferson appointed J. B. Prevost of New York, Burr's stepson, a judge of the Superior Court at New Orleans; James Brown, who married Mrs. Burr's sister, was made secretary to the Louisiana Territory and sent to govern St. Louis, solely on Burr's recommendation; James Wilkinson, one of Burr's most intimate friends and general-in-chief of the army, was made governor of the Louisiana Territory, — an appointment directly opposed to Jefferson's theories about the union of civil and military

authority.<sup>1</sup> Besides these conciliatory compliments the President repeatedly invited Burr to dinner, and treated him with more attention than ever before;<sup>2</sup> both Madison and Gallatin kept up friendly relations with him; while Senator Giles of Virginia drew an Address to Governor Bloomfield of New Jersey, and caused it to be signed by all the senators who could be induced to let their names be used, requesting that a *nolle prosequi* should be entered on the indictment against Burr found by the grand jury of Bergen county.

The Virginians closed their quarrels for the moment in order to support the impeachment. William B. Giles, who came to the Senate in place of Wilson Cary Nicholas, acted as Randolph's representative in shaping the Senate's rules.<sup>3</sup> He canvassed its members, and dealt with those who doubted, laboring earnestly and openly to bring senators to the Virginia standpoint, as fixed by him in a speech intended to serve as guide in framing rules for the proceedings about to begin. This speech, made Dec. 20, 1804,<sup>4</sup> maintained that the Constitution put no limit on impeachment, but said only that the Senate should try *all* impeachments; and therefore, while any civil officer convicted of treason, bribery, or other high crimes and misdemeanors should be removed from office, in

<sup>1</sup> Jefferson to General Smith, May 4, 1806; Works, v. 13.

<sup>2</sup> Life of Plumer, p. 330.

<sup>3</sup> Diary of J. Q. Adams (Nov. 29, 30, 1804), i. 318.

<sup>4</sup> Boston Centinel, Jan. 9, 1805.

all other cases not enumerated the Senate might at its discretion remove, disqualify, or suspend the officer. Thus Judge Pickering had been removed, said Giles, though undoubtedly insane and incapable of committing any crime or of making his defence. "So the assumption of power on the part of the Supreme Court in issuing their process to the office of the Secretary of State, directing the Executive how a law of the United States should be executed, and the right which the courts have assumed to themselves of reviewing and passing upon the Acts of the Legislature in other cases," were matter of impeachment. In arguing this thesis Giles was obliged to take the ground that the Senate was not a court, and ought to discard all analogy with a court of justice;<sup>1</sup> impeachment need imply no criminality or corruption, and removal was nothing more than a notice to the impeached officer that he held opinions dangerous to the State, and that his office must be put in better hands. He induced the Senate to strike out the word "court" where it occurred in the proposed rules;<sup>2</sup> and at length went so far as to deny that the secretary of the Senate could administer the oath to witnesses, or that the Senate had power to authorize the secretary to administer such an oath, but must send for a magistrate competent for the purpose. Unfortunately for him, the impeachment of Judge Pickering was a precedent directly opposed to this doctrine. He was

<sup>1</sup> Diary of J. Q. Adams (Dec. 21, 1804), i. 322.

<sup>2</sup> Ibid. (Dec. 24, 1804), i. 324, 325.

compelled to submit while the Senate unwillingly took the forms of a court.

Giles's view of impeachment, which was the same with that of Randolph, had the advantage of being clear and consistent. The opposite extreme, afterward pressed by Luther Martin and his associate counsel for the defence, restricted impeachment to misdemeanors indictable at law, — a conclusion not to be resisted if the words of the Constitution were to be understood in a legal sense. Such a rule would have made impeachment worthless for many cases where it was likely to be most needed ; for comparatively few violations of official duty, however fatal to the State, could be brought within this definition. Giles might have quoted Madison in support of the broader view ; and if Madison did not understand the Constitution, any other Virginian might be excused for error. So far back as the year 1789, when Congress began to discuss the President's powers, Madison said : " I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust." Such a misdemeanor was certainly not indictable, and could not technically be brought within the words of the Constitution ; it was impeachable only on Giles's theory.

The Senate became confused between these two views, and never knew on what theory it acted. Giles failed to take from its proceedings the character of a court of justice ; but though calling itself a court of justice, it would not follow strict rules of law. The

result was a nondescript court, neither legal nor political, making law and voting misdemeanors for itself as it went, and stumbling from one inconsistency to another.

The managers added to the confusion. They put forward no steady theory of their own as to the nature of impeachment; possibly differing in opinion, they intentionally allotted different lines of argument to each. In opening the case, Feb. 20, 1805, one of the managers, George W. Campbell of Tennessee, took the ground that "misdemeanor" in the Constitution need imply no criminality. "Impeachment," said he, "according to the meaning of the Constitution, may fairly be considered a kind of inquest into the conduct of an officer merely as it regards his office. . . . It is more in the nature of a civil investigation than of a criminal prosecution." Such seemed to be the theory of the managers and of the House; for although the articles of impeachment reported by Randolph in March, 1804, had in each case alleged acts which were inspired by an evil intent to oppress the victim or to excite odium against the Government, and were at least misdemeanors in the sense of misbehavior, Randolph at the last moment slipped into the indictment two new articles, one of which alleged no evil intent at all, while both alleged, at worst, errors in law such as every judge in the United States had committed. Article V. charged that Chase had issued a *capias* against Callender, when the law of Virginia required a summons to appear at the next court. Article VI. charged that

he had, "with intent to oppress," held Callender for trial at once, contrary to the law of Virginia. Every judge on the Supreme Bench had ruled that United States courts were not bound to follow the processes of the State courts; Chief-Justice Marshall himself, as Giles threatened, must be the first victim if such an offence were a misdemeanor in constitutional law.

That a judge was impeachable for a mistake in declaring the law seemed therefore to be settled, so far as the House and its managers could decide the point. Judge Chase's counsel assumed that this principle, which had been so publicly proclaimed, was seriously meant; and one after another dwelt on the extravagance of the doctrine that a civil officer should be punished for mere error of judgment. In reply, Joseph H. Nicholson, Randolph's closest ally, repudiated the theory on which he had himself acted in Pickering's case, and which Giles, Randolph, and Campbell pressed; he even denied having heard such ground taken as that an impeachment was a mere inquest of office:—

"For myself, I am free to declare that I heard no such position taken. If declarations of this kind have been made, in the name of the managers I here disclaim them. We do contend that this is a criminal prosecution for offences committed in the discharge of high official duties, and we now support it, — not merely for the purpose of removing an individual from office, but in order that the punishment inflicted on him may deter others from pursuing the baneful example which has been set them."



The impeachment, then, was a criminal prosecution, and the Senate was a criminal court; yet no offence was charged which the law considered a misdemeanor, while error of judgment, with no imputed ill-intent, was alleged as a crime.

Staggering under this load of inconsistencies, uncertain what line of argument to pursue, and ignorant whether the Senate would be ruled by existing law or invent a system of law of its own, the managers, Feb. 9, 1805, appeared in the Senate chamber to open their case and produce their witnesses. Upon the popular imagination of the day the impeachment of Warren Hastings had taken deep hold. Barely ten years had passed since the House of Lords rendered its judgment in that famous case; and men's minds were still full of associations with Westminster Hall. The impeachment of Judge Chase was a cold and colorless performance beside the melodramatic splendor of Hastings's trial; but in the infinite possibilities of American democracy, the questions to be decided in the Senate chamber had a weight for future ages beyond any that were then settled in the House of Lords. Whether Judge Chase should be removed from the bench was a trifling matter; whether Chief-Justice Marshall and the Supreme Court should hold their power and principles against this combination of States-rights conservatives and Pennsylvania democrats was a subject for grave reflection. Men who did not see that the tide of political innovation had long since turned, and that the French revolution

was no longer raging, were consumed with anxiety for the fate of Chase, and not wholly without reason ; for had Marshall been a man of less calm and certain judgment, a single mistake by him might easily have prostrated the judiciary at the feet of partisans.

By order of the Vice-President the Senate chamber was arranged in accordance with his ideas of what suited so grave an occasion. His own chair stood, like that of the chief-justice in the court-room, against the wall, and on its right and left crimson benches extended like the seats of associate judges, to accommodate the thirty-four senators, who were all present. In front of the Vice-President, on the right, a box was assigned to the managers ; on the left, a similar box was occupied by Justice Chase and his counsel. The rest of the floor was given to members of the House, foreign ministers, and other official persons. Behind these a new gallery was erected especially for ladies, and at each end of this temporary gallery boxes were reserved for the wives and families of public officers. The upper and permanent gallery was public. The arrangement was a mimic reproduction of the famous scene in Westminster Hall ; and the little society of Washington went to the spectacle with the same interest and passion which had brought the larger society of London to hear the orations of Sheridan and Burke.

Before this audience Justice Chase at last appeared with his array of counsel at his side, — Luther Martin,

Robert Goodloe Harper, Charles Lee, Philip Barton Key, and Joseph Hopkinson. In such a contest weakness of numbers was one element of strength; for the mere numbers of Congressmen served only to rouse sympathy for the accused. The contest was unequal in another sense, for the intellectual power of the House was quite unable on the field of law to cope with the half-dozen picked and trained champions who stood at the bar. Justice Chase alone was a better lawyer than any in Congress; Luther Martin could easily deal with the whole box of managers; Harper and Lee were not only lawyers, but politicians; and young Hopkinson's genius was beyond his years.

In the managers' box stood no lawyer of corresponding weight. John Randolph, who looked upon the impeachment as his personal act, was not only ignorant of law, but could not work by legal methods. Joseph H. Nicholson and Cæsar A. Rodney were more formidable; but neither of them would have outweighed any single member of Chase's counsel. The four remaining managers, all Southern men, added little to the strength of their associates. John Boyle of Kentucky lived to become chief-justice of that State, and was made district judge of the United States by a President who was one of the Federalist senators warmly opposed to the impeachment. George Washington Campbell of Tennessee lived to be a senator, Secretary of the Treasury, and minister to Russia. Peter Early of Georgia became a judge on the Supreme Bench of his own State. Christopher Clark of Virginia was

chosen only at the last moment to take the place of Roger Nelson of Maryland, who retired. None of them rose much above the average level of Congress ; and Chase's counsel grappled with them so closely, and shut them within a field so narrow, that no genius could have found room to move. From the moment that the legal and criminal character of impeachment was conceded, Chase's counsel dragged them hither and thither at will.

Feb. 9, 1805, the case was opened by John Randolph. Randolph claimed to have drawn all the articles of impeachment with his own hand. If any one understood their character, it was he ; and the respondent's counsel naturally listened with interest for Randolph's explanation or theory of impeachment, and for the connection he should establish between his theory and his charges. These charges were numerous, but fell under few heads. Of the eight articles which Randolph presented, the first concerned the judge's conduct at the trial of John Fries for treason in Philadelphia in 1800 ; the five following articles alleged a number of offences committed during the trial of James Thompson Callender for libel at Richmond in that year ; Article VII. charged as a misdemeanor the judge's refusal, in the same year, to dismiss the grand jury in Delaware before indicting a seditious printer ; finally, Article VIII. complained of the judge's harangue to the grand jury at Baltimore in May, 1803, which it characterized as "highly indecent, extrajudicial, and tending to prostitute the high judicial

character with which he was invested to the low purpose of an electioneering partisan."

Serious as some of these charges certainly were,—for in the case of Callender, even more than in that of Fries, Chase's temper had led him to strain, if not to violate, the law,—none of the articles alleged an offence known to the statute-books or the common law; and Randolph's first task was to show that they could be made the subject of impeachment, that they were high crimes and misdemeanors in the sense of the Constitution, or that in some sense they were impeachable. Instead of arguing this point, he contented himself by declaring the theory of the defence to be monstrous. His speech touched the articles, one by one, adding little to their force, but piling one mistake on another in its assertions of fact and assumptions of law.

Ten days passed in taking evidence before the field was cleared and the discussion began. Then, Feb. 20, 1805, Early and Campbell led for the managers in arguments which followed more or less closely in Randolph's steps, inferring criminality in the accused from the manifest tenor of his acts. Campbell ventured to add that he was not obliged to prove the accused to have committed any crime known to the law,—it was enough that he had transgressed the line of official duty with corrupt motives; but this timid incursion into the field of the Constitution was supported by no attempt at argument. "I lay it down as a settled rule of decision," said he, "that when a

man violates a law or commits a manifest breach of his duty, an evil intent or corrupt motive must be presumed to have actuated his conduct."

Joseph Hopkinson opened for the defence. Friends and enemies joined in applauding the vigor of this young man's attack. The whole effort of Chase's counsel was to drive the impeachers within the limits of law, and compel them to submit to the restrictions of legal methods. Hopkinson struck into the heart of the question. He maintained that under the Constitution no judge could be lawfully impeached or removed from office for any act or offence for which he could not be indicted; "misdemeanor," he argued, was a technical term well understood and defined, which meant the violation of a public law, and which, when occurring in a legal instrument like the Constitution, must be given its legal meaning. After stating this proposition with irresistible force, he dealt with Article I. of the impeachment, which covered the case of Fries, and shook it to pieces with skill very unlike the treatment of Early and Campbell. Barton Key next rose, and dealt with Articles II., III., and IV., covering part of Callender's case; he was followed by Charles Lee, who succeeded in breaking down Randolph's interpolated Articles V. and VI. Then Luther Martin appeared on the scene, and the audience felt that the managers were helpless in his hands.

This extraordinary man — "unprincipled and impudent Federalist bulldog," as Jefferson called him —



revelled in the pleasure of a fight with democrats. The bar of Maryland felt a curious mixture of pride and shame in owning that his genius and vices were equally remarkable. Rough and coarse in manner and expression, verbose, often ungrammatical, commonly more or less drunk, passionate, vituperative, gross, he still had a mastery of legal principles and a memory that overbalanced his faults, an audacity and humor that conquered ill-will. In the practice of his profession he had learned to curb his passions until his ample knowledge had time to give the utmost weight to his assaults. His argument at Chase's trial was the climax of his career; but such an argument cannot be condensed in a paragraph. Its length and variety defied analysis within the limits of a page, though its force made other efforts seem unsubstantial.

Martin covered the same ground that his associates had taken before him, dwelling earnestly on the contention that an impeachable offence must be also indictable. Harper followed, concluding the argument for the defence, and seeming to go beyond his associates in narrowing the field of impeachment; for he argued that it was a criminal prosecution, which must be founded on some wilful violation of a known law of the land, — a line of reasoning which could end only in requiring the violation of an Act of Congress. This theory did not necessarily clash with that of Martin. No hesitation or inconsistency was shown on the side of the defence; every

resource of the profession was used with energy and skill.

The managers then put forward their best pleaders ; for they had need of all their strength. Nicholson began by disavowing the idea that impeachment was a mere inquest of office ; this impeachment was, he said, a criminal prosecution intended not merely to remove, but to punish, the offender. On the other hand, he maintained that since judges held their commissions during good behavior, and could be removed only by impeachment, the Constitution must have intended that any act of misbehavior should be considered a misdemeanor. He showed the absurdities which would rise from construing the Constitution in a legal sense. His argument, though vigorous and earnest, and offering the advantages of a plausible compromise between two extreme and impracticable doctrines, yet evidently strained the language of the Constitution and disregarded law. As Nicholson himself said, he discarded legal usage : “ In my judgment the Constitution of the United States ought to be expounded upon its own principles, and foreign aid ought never to be called in. Our Constitution was fashioned after none other in the known world ; and if we understand the language in which it is written, we require no assistance in giving it a true exposition.” He wanted a construction “ purely and entirely American.” In the mouth of a strict constructionist this substitution of the will of Congress for the settled rules of law had as strange a sound as Luther Martin

could have wished, and offered another example of the instinct, so striking in the Louisiana debate, which not even Nicholson, Randolph, or Jefferson himself could always resist.

Rodney, the same day, followed Nicholson; and as though not satisfied with his colleague's theory, did what Nicholson, in the name of all the managers, had a few hours before expressly disclaimed, — he adopted and pressed Giles's theory of impeachment with all the precision of language he could command. Nicholson seemed content to assume impeachment as limited to "treason, bribery, or other high crimes and misdemeanors;" but in his view misbehavior might be construed as a misdemeanor in a "purely and entirely American" sense. Rodney was not satisfied with this argument, and insisted that the Constitution imposed no limit on impeachment.

"Is there a word in the whole sentence," he asked, "which expresses an idea, or from which any fair inference can be drawn, that no person shall be impeached but for 'treason, bribery, or other high crimes and misdemeanors?' . . . From the most cursory and transient view of this passage I submit with due deference that it must appear very manifest that there are other cases than those here specified for which an impeachment will lie and is the proper remedy."

The judges held their offices during good behavior; the instant a judge should behave ill his office became forfeited. To ascertain the fact "officially, or rather judicially," impeachment was provided; the authority

of the Senate was therefore coextensive with the complaint.

Rodney stated this principle broadly, but did not rest upon it; on the contrary, he accepted the respondent's challenge, and undertook to show that Chase had been guilty of crimes and misdemeanors in the technical sense of the term. Probably he was wise in choosing this alternative; for no one could doubt that his constitutional doctrine was one into which Chase's counsel were sedulously trying to drive him. If Rodney was right, the Senate was not a court of justice, and should discard judicial forms. Giles had seen this consequence of the argument, and had acted upon it, until beaten by its inevitable inconsistencies; at least sixteen senators were willing to accept the principle, and to make of impeachment an "official, or rather judicial," inquest of office. Judge Chase's counsel knew also that some half-dozen Republican senators feared to allow a partisan majority in the Senate to decide, after the fact, that such or such a judicial opinion had forfeited the judge's seat on the bench. This practice could end only in making the Senate, like the House of Lords, a court of last appeal. Giles threatened to impeach Marshall and the whole Supreme Court on Rodney's theory; and such a threat was as alarming to Dr. Mitchill of New York, or Senator Bradley of Vermont, as it was to Pickering and Tracy.

When Rodney finished, the theory of impeachment was more perplexed than ever, and but one chance remained to clear it. All the respondent's counsel

had spoken in their turn; all the managers had expounded their theories: John Randolph was to close. Randolph was an invalid, overwhelmed by work and excitement, nervous, irritable, and not to be controlled. When he appeared in the box, Feb. 27, 1805, he was unprepared; and as he spoke, he not only made his usual long pauses for recollection, but continually complained of having lost his notes, of his weakness, want of ability, and physical as well as moral incompetence. Such expressions in the mouths of other men might have passed for rhetoric; but Randolph's speech showed that he meant all he said. He too undertook to answer the argument of Luther Martin, Harper, and Hopkinson on the nature of impeachment; but he answered without understanding it, — calling it “almost too absurd for argument,” “a monstrous pretension,” “a miserable quibble,” but advancing no theory of his own, and supporting neither Campbell's, Nicholson's, nor Rodney's opinion. After a number of arguments which were in no sense answers, he said he would no longer worry the good sense of the Court by combating such a claim, — a claim which the best lawyers in America affirmed to be sound, and the two ablest of the managers had exhausted themselves in refuting.

Randolph's closing speech was overcharged with vituperation and with misstatements of fact and law, but was chiefly remarkable on account of the strange and almost irrational behavior of the speaker. Randolph's tall, thin figure, his penetrating eyes and

shrill voice, were familiar to the society of Washington, and his violence of manner in the House only a short time before, in denouncing Granger and the Yazoo men, had prepared his audience for some eccentric outburst; but no one expected to see him, "with much distortion of face and contortion of body, tears, groans, and sobs," break down in the middle of his self-appointed task, and congratulate the Senate that this was "the last day of my sufferings and of yours."<sup>1</sup>

The next day the Senate debated the form of its final judgment.<sup>2</sup> Bayard moved that the question should be put: "Is Samuel Chase guilty or not guilty of a high crime or misdemeanor as charged in the article just read?" The point was vital; for if this form should be adopted, the Senate returned to the ground it had deserted in the case of Judge Pickering, and every senator would be obliged to assert that Chase's acts were crimes. At this crisis Giles abandoned the extreme impeachers. He made a speech repeating his old argument, and insisting that the House might impeach and the Senate convict not only for other than indictable offences, but for other than high crimes and misdemeanors; yet since in the present case the charges were avowedly for high crimes and misdemeanors, he was willing to take the question as Bayard proposed it, protesting meanwhile against its establishment as a precedent. Bayard's

<sup>1</sup> Diary of J. Q. Adams (Feb. 27, 1805), i. 359.

<sup>2</sup> *Ibid.*, i. 361, 362.



Resolution was adopted March 1, a few moments before the hour of half-past twelve, which had been appointed for pronouncing judgment.

The Senate chamber was crowded with spectators when Vice-President Burr took the chair and directed the secretary to read the first article of impeachment. Every member of the Senate answered to his name. Tracy of Connecticut, prostrated by recent illness, was brought on a couch and supported to his seat, where his pale face added to the serious effect of the scene. The first article, which concerned the trial of Fries, was that on which Randolph had founded the impeachment, and on which the managers had thrown perhaps the greatest weight. As the roll was called, Senator Bradley of Vermont, first of the Republican members, startled the audience by saying "Not Guilty." Gaillard of South Carolina, and, to the astonishment of every one, Giles, the most ardent of impeachers, repeated the same verdict. These three defections decided the result; but they were only the beginning. Jackson of Georgia, another hot impeacher, came next; then Dr. Mitchill, Samuel Smith of Maryland, and in quick succession all the three Smiths of New York, Ohio, and Vermont. A majority of the Senate declared against the article, and the overthrow of the impeachers was beyond expectation complete.

On the second article the acquittal was still more emphatic; but on the third the impeachers rallied,—Giles, Jackson, and Samuel Smith returned to their

party, and for the first time a majority appeared for conviction. Yet even with this support, the impeachers were far from obtaining the required twenty-three votes; the five recalcitrant Northern democrats stood firm; Gaillard was not to be moved, and Stone of North Carolina joined him:—the impeachers could muster but eighteen votes. They did no better on the fourth article. On the fifth,—Randolph's interpolated charge, which alleged no evil intent,—every member of the Senate voted "Not Guilty;" on the sixth, which was little more than a repetition of the fifth, only four senators could be found to condemn, and on the seventh, only ten. One chance of conviction remained, the eighth article, which covered the judge's charge to the grand jury at Baltimore in 1803. There lay the true cause of impeachment; yet this charge had been least pressed and least defended. The impeachers brought out their whole strength in its support; Giles, Jackson, Samuel Smith, and Stone united in pronouncing the judge guilty: but the five Northern democrats and Gaillard held out to the last, and the managers saw themselves deserted by nearly one fourth of the Republican senators. Nineteen voices were the utmost that could be induced to sustain impeachment.

The sensation was naturally intense; and yet the overwhelming nature of the defeat would have warranted an excitement still greater. No one understood better the meaning of Chase's acquittal than John Randolph, whose authority it overthrew. His

anger showed itself in an act which at first alarmed and then amused his enemies. Hurrying from the Senate chamber to the House, he offered a Resolution for submitting to the States an amendment to the Constitution: "The judges of the Supreme and all other courts of the United States shall be removed by the President on the joint address of both Houses of Congress." His friend Nicholson, as though still angrier than Randolph, moved another amendment,—that the legislature of any State might, whenever it thought proper, recall a senator and vacate his seat. These resolutions were by a party vote referred to the next Congress.

Randolph threatened in vain; the rod was no longer in his hands. His overthrow before the Senate was the smallest of his failures. The Northern democrats talked of him with disgust; and Senator Cocke of Tennessee, who had voted "Guilty" on every article of impeachment except the fifth, told his Federalist colleagues in the Senate that Randolph's vanity, ambition, insolence, and dishonesty, not only in the impeachment but in other matters, were such as to make the acquittal no subject for regret.<sup>1</sup> Madison did not attempt to hide his amusement at Randolph's defeat. Jefferson held himself studiously aloof. To Jefferson and men of his class Randolph seems to have alluded, in a letter written a few weeks later, as "whimsicals," who "advocated the leading measures of their party until they were

<sup>1</sup> Diary of J. Q. Adams (March 1, 1805), i. 364.

nearly ripe for execution, when they hung back, condemned the step after it was taken, and on most occasions affected a glorious neutrality.”<sup>1</sup> Even Giles turned hostile. He not only yielded to the enemies of Randolph in regard to the form of vote to be taken on the impeachment, and fairly joined them in the vote on the first article, but he also aided in offering Randolph a rebuke on another point connected with the impeachment.

In the middle of the trial, February 15, Randolph reported to the House, and the House quickly passed, a Bill appropriating five thousand dollars for the payment of the witnesses summoned by the managers. When this Bill came before the Senate, Bayard moved to amend it by extending its provisions to the witnesses summoned by Judge Chase. The point was delicate; for if the Senate was a court, and impeachment a criminal procedure, this court should follow the rules that guided other judicial bodies; and every one knew that no court in America or in Christendom obliged the State, as a prosecutor, to pay the witnesses of the accused. After the acquittal, such a rule was either equivalent to telling the House that its charges against Chase were frivolous and should never have been presented, or it suggested that the trial had been an official inquiry into the conduct of an officer, and not a criminal procedure at law. The Republicans might properly reject the first assump-

<sup>1</sup> Randolph to Nicholson, April 30, 1805; Adams's Randolph, p. 157.

tion, the Federalists ought to resist the second; yet when Bayard's amendment came to a vote, it was unanimously adopted.<sup>1</sup> The House disagreed; the Senate insisted, and Giles led the Senate, affirming that he had drawn the form of summons, and that this form made no distinction between the witnesses for one party and the other. The argument was not decisive, for the court records showed at once by whom each witness was called; but Giles's reasoning satisfied the Senate, and led to his appointment, March 3, with Bradley, an enemy of impeachment, as conferees to meet Randolph, Nicholson, and Early on the part of the House. They disagreed; and Randolph, with his friends, felt that Giles and the Senate had inflicted on them a grievous insult. The Report of the conference committee was received by the House at about seven o'clock on the evening of March 3, when the Eighth Congress was drawing its last breath. Randolph, who reported the disagreement, moved that the House adhere; and having thus destroyed the Bill, he next moved that the Clerk of the House should be directed to pay the witnesses, or any other expense certified by the managers, from the contingent fund. He would have carried his point, although it violated every financial profession of the Republican party, but that the House was thin, and the Federalists, by refusing to vote, prevented a quorum. At half-past nine o'clock on Sunday night, the 3d of March, 1805, the Eighth Congress

<sup>1</sup> Diary of J. Q. Adams (March 2, 1805), i. 367.

came to an end in a scene of total confusion and factiousness.

The failure of Chase's impeachment was a blow to the Republican party from which it never wholly recovered. Chief-Justice Marshall at length was safe; he might henceforward at his leisure fix the principles of Constitutional law. Jefferson resigned himself for the moment to Randolph's overthrow; but the momentary consolations passed away, and a life-long disappointment remained. Fifteen years later his regret was strongly expressed:—

“The Judiciary of the United States,” mourned the old ex-President,<sup>1</sup> “is the subtle corps of sappers and miners constantly working underground to undermine the foundations of our confederated fabric. They are construing our Constitution from a co-ordination of a general and special government to a general and supreme one alone. . . . Having found from experience that impeachment is an impracticable thing, a mere scarecrow, they consider themselves secure for life; they skulk from responsibility; . . . an opinion is huddled up in conclave, perhaps by a majority of one, delivered as if unanimous, and with the silent acquiescence of lazy or timid associates, by a crafty chief-judge who sophisticates the law to his mind by the turn of his own reasoning.”

The acquittal of Chase proved that impeachment was a scarecrow; but its effect on impeachment as a principle of law was less evident. No point was decided. The theory of Giles, Randolph, and Rodney

<sup>1</sup> Jefferson to Thomas Ritchie, Dec. 25, 1820; Works, vii. 192.



was still intact, for it was not avowedly applied to the case. The theory of Judge Chase's counsel — that an impeachable offence must be also indictable, or even a violation of some known statute of the United States — was overthrown neither by the argument nor by the judgment. So far as Constitutional law was concerned, President Jefferson himself might still be impeached, according to the dictum of Madison, for the arbitrary removal of a useful tide-waiter, and Chief-Justice Marshall might be driven from the bench, as Giles wished, for declaring the Constitution to be above the authority of a statute; but although the acquittal of Chase decided no point of law except his innocence of high crimes or misdemeanors, as charged in the indictment, it proved impeachment to be "an impracticable thing" for partisan purposes, and it decided the permanence of those lines of Constitutional development which were a reflection of the common law. Henceforward the legal profession had its own way in expounding the principles and expanding the powers of the central government through the Judiciary.

## CHAPTER XI.

THE Louisiana treaty, signed in May, 1803, was followed by two years of diplomatic activity. The necessary secrecy of diplomacy gave to every President the power to involve the country without its knowledge in dangers which could not be afterward escaped, and the Republican party neither invented nor suggested means by which this old evil of irresponsible politics could be cured; but of all Presidents, none used these arbitrary powers with more freedom and secrecy than Jefferson. His ideas of Presidential authority in foreign affairs were little short of royal. He loved the sense of power and the freedom from oversight which diplomacy gave, and thought with reason that as his knowledge of Europe was greater than that of other Americans, so he should be left to carry out his policy undisturbed.

Jefferson's overmastering passion was to obtain West Florida. To this end two paths seemed open. If he chose to conciliate, Yrujo was still ready to aid; and Spain stood in such danger between England and France that Godoy could not afford to throw the United States into the hands of either. If Jefferson

wished the friendship of Spain, he had every reason to feel sure that the Prince of Peace would act in the same spirit in which he had negotiated the treaty of 1795 and restored the right of deposit in 1802. In this case Florida must be let alone until Spain should be willing to cede, or the United States be ready for war.

On the other hand, the President might alienate Spain and grasp at Florida. Livingston and Monroe warmly urged this policy, and were in fact its authors. Livingston's advice would by itself have had no great weight with Jefferson or Madison, but they believed strongly in Monroe; and when he made Livingston's idea his own, he gave it weight. Monroe had been sent abroad to buy Florida; he had bought Louisiana. From the Potomac to the Mississippi, every Southern man expected and required that by peace or war Florida should be annexed to the Union; and the annexation of Louisiana made that of Florida seem easy. Neither Monroe, Madison, nor Jefferson could resist the impulse to seize it.

Livingston's plan has been described. He did not assert that Spain had intended to retrocede Florida to France, or that France had claimed it as included in the retrocession. He knew the contrary; and tried in vain to find some one willing to say that the country to the Perdido ought to be included in the purchase. He made much of Marbois's cautious encouragement and Talleyrand's transparent manœuvres; but he was forced at last to maintain that Spain had retroceded

West Florida to France without knowing it, that France had sold it to the United States without suspecting it, that the United States had bought it without paying for it, and that neither France nor Spain, although the original contracting parties, were competent to decide the meaning of their own contract. Believing that Bonaparte was pledged to support the United States in their effort to obtain West Florida, Livingston was anxious only to push Spain to the utmost. Talleyrand allowed him to indulge in these dreams. "I have obtained from him," wrote Livingston to Madison,<sup>1</sup> "a positive promise that this government shall aid any negotiation that shall be set on foot" for the purchase of East Florida; while as for Florida west of the Perdido, "the moment is so favorable for taking possession of that country, that I hope it has not been neglected, even though a little force should be necessary to effect it. Your minister must find the means to justify it."

When the letters written by Livingston and Monroe in May, 1803, reached Washington, they were carefully studied by the President, fully understood, and a policy quickly settled. When Jefferson wrote to Senator Breckinridge his ideas on the unconstitutionality of the purchase, he spoke with equal clearness on the course he meant to pursue toward Spain in order to obtain Florida : <sup>2</sup> —

<sup>1</sup> Livingston to Madison, Nov. 15, 1803; State Papers, ii. 573, 574.

<sup>2</sup> Jefferson to Breckinridge, Aug. 12, 1803; Works, iv. 498.

“We have some claims to extend on the sea-coast westwardly to the Rio Norte or Bravo, and, better, to go eastwardly to the Rio Perdido, between Mobile and Pensacola, the ancient boundary of Louisiana. These claims will be a subject of negotiation with Spain; and if as soon as she is at war we push them strongly with one hand, holding out a price with the other, we shall certainly obtain the Floridas, and all in good time.”

This was not Livingston's plan, but something quite distinct from it. Livingston and Monroe wanted the President to seize West Florida, and negotiate for East Florida. Jefferson preferred to negotiate for West Florida and to leave East Florida alone for the time.

Madison had already instructed<sup>1</sup> the minister at Madrid that the Floridas were not included in the treaty, “being, it appears, still held by Spain,” and that the negotiation for their purchase would be conducted by Monroe at Madrid. Instructions of the same date were instantly sent to Monroe,<sup>2</sup> urging him to pursue the negotiation for Florida, although owing to the large drain made on the Treasury, and to the “manifest course of events,” the government was not disposed to make sacrifices for the sake of obtaining that country. “Your inquiries may also be directed,” wrote Madison, “to the question whether any, and how much, of what passes for West Florida be fairly included in the territory ceded to us by France.”

<sup>1</sup> Madison to Pinckney, July 29, 1803; State Papers, ii. 614.

<sup>2</sup> Madison to Monroe, July 29, 1803; State Papers, ii. 626.

The idea that West Florida could be claimed as a part of the Louisiana purchase was a turning-point in the second Administration of Jefferson. Originating in Minister Livingston's mind, it passed from him to Monroe; and in a few weeks the President declared the claim substantial.<sup>1</sup> As the summer of 1803 closed, Jefferson's plan became clear. He meant to push this claim, in connection with other claims, and to wait the moment when Spain should be dragged into the war between France and England.

These other claims were of various degrees of merit, and involved France as well as Spain. During the *quasi* war between the United States and France, before Jefferson came into power, American commerce in Spanish waters suffered severely from two causes. The first consisted in captures made by Spanish cruisers, and condemnations decided in Spanish courts; the second was due to captures made by French cruisers, and condemned by French consuls in Spanish ports, or by courts of appeal in France, without regard to the rights or dignity of Spain. With much trouble, in August, 1802, at the time when Europe and America were waiting for the end of Leclerc's struggle with the negroes and fevers of St. Domingo, Pinckney succeeded in persuading the Prince of Peace to let the claims for Spanish depredations go before a commission for settlement; but Godoy obstinately refused to recognize the claims for French depredations, taking the ground that Spain was in no way

<sup>1</sup> Jefferson to Madison, Aug. 25, 1803; Works, iv. 501.



responsible for them, had never in any way profited by them, and had no power at the time they occurred to prevent them; that France, and France alone, had committed the offence, and should pay for it.

Pinckney resisted this reasoning as energetically as possible; but when Cevallos offered to sign a convention covering the Spanish depredations, and reserving the Franco-Spanish claims for future discussion, Pinckney properly decided to accept an offer which secured for his fellow-citizens five or ten millions of money, and which left the other claim still open.<sup>1</sup> The convention of Aug. 11, 1802, was sent to the Senate Jan. 11, 1803, in the excitement that followed Morales's withdrawal of the *entrepôt* at New Orleans. The Senate deferred action until the last moment of the session; and then, March 3, 1803, after Nicholson and Randolph had appeared at the bar to impeach Judge Pickering, Pinckney's claims convention was taken up, and the nine Federalists were allowed to defeat it by the absence of Republican senators. The majority reconsidered the vote and postponed the whole subject till the next session. Thus, owing to the action of Federalist senators, when Jefferson in the following summer, after buying Louisiana, looked about for the means of buying Florida, he found these classes of claims, aggregating as he supposed between five and ten million dollars, ready to his hand. Monroe was promptly ordered to insist upon treating both classes alike, and setting both of them against the proposed

<sup>1</sup> Pinckney to Madison, Aug. 15, 1802; State Papers, ii. 482.

purchase of Florida. "On the subject of these claims you will hold a strong language," said Madison.<sup>1</sup>

A third class of claims could be made useful for the same purpose. Damages had been sustained by individuals in the violation of their right of deposit at New Orleans in the autumn of 1802.

"A distinction, however, is to be made," wrote Madison, "between the positive and specific damages sustained by individuals and the general injuries accruing from that breach of treaty. The latter could be provided for by a gross and vague estimate only, and need not be pressed as an indispensable condition. The claim however may be represented as strictly just, and a forbearance to insist on it as an item in the valuable considerations for which the cession [of Florida] is made. Greater stress may be laid on the positive and specific damages capable of being formally verified by individuals; but there is a point beyond which it may be prudent not to insist, even here, especially as the incalculable advantage accruing from the acquisition of New Orleans will diffuse a joy throughout the western country that will drown the sense of these little sacrifices. Should no bargain be made on the subject of the Floridas, our claims of every sort are to be kept in force."

The President had not then decided to claim West Florida as included in the Louisiana purchase, and he conceived of no reason which should make Spain cling the more closely to Florida on account of the loss of New Orleans.

The news of the Louisiana purchase reached Wash-

<sup>1</sup> Madison to Monroe, July 29, 1803; State Papers, ii. 626.

ington early in July, 1803; Madison wrote his instructions to Monroe at the end of the same month; Jefferson announced his policy to Breckenridge in August. This was the harvest season of his life. His theories were proved sound; his system of government stood in successful rivalry with that of Bonaparte and Pitt; and he felt no doubt that his friendship was as vital to England, France, and Spain as all the armies and navies of the world. In the midst of this enjoyment, September 4, he was suddenly told by the Marquis of Casa Yrujo that he had bought stolen goods, and that Spain as the rightful owner protested against the sale.<sup>1</sup>

Notwithstanding this strong measure, doubtless taken in obedience to orders, Yrujo was still true to his old friendship. On hearing of the cession, he did again what he had done eight months before, in the excitement about the *entrepôt* at New Orleans,—he tried to smooth difficulties and quiet alarms.

“The ports of Florida,” he wrote to Don Pedro Cevallos,<sup>2</sup> “as they would make it easy for us to annoy greatly the American commerce in case of a war, would in like degree furnish the Americans, if the Americans should possess them, the same means of annoying ours, and of carrying on an immense contraband trade from them, especially from Pensacola and Mobile, with our provinces in the Gulf of Mexico. This last is the chief evil which in my opinion will result from the acquisition of Loui-

<sup>1</sup> Yrujo to Madison, Sept. 4 and 27, 1803; State Papers, ii. 569.

<sup>2</sup> Yrujo to Cevallos, Aug. 3, 1803; MSS. Spanish Archives.

siana by the Americans, and can only be diminished by numerous, watchful, and active revenue-cutters. For the rest I do not look on the alienation of Louisiana as a loss for Spain. That colony cost us much, and produced us very little."

In short, Louisiana could not be defended by Spain, while as a part of the United States it would certainly weaken, and probably dissolve, the Union. As for the protest, he told <sup>1</sup> his Government, even before he received Madison's reply, that nothing would come of it.

As late as Nov. 5, 1803, Yrujo continued to write in the same tone to his Government.

"The information I have received from trustworthy persons," he said,<sup>2</sup> "in regard to the disposition in which General Victor was coming here, and the spirit of restlessness and almost of rapine which reigned among many of the officials in his army, leave me no doubt that the military colony of the French in Louisiana would have been in reality a worse neighbor than the Americans for us. Things have now taken such a turn, that in my humble opinion if we are to lose Louisiana, the choice whether that colony shall fall into the power of one nation rather than another is not worth the expense and trouble of a war, provided we preserve the Floridas. . . . I am convinced that this Government knows perfectly the national interests, and to promote them will follow in this respect a course of conduct which in proportion as it better suits our own, should inspire us with greater confidence."

<sup>1</sup> Yrujo to Cevallos, Sept. 12, 1803; MSS. Spanish Archives.

<sup>2</sup> Yrujo to Cevallos, Nov. 5, 1803; MSS. Spanish Archives.

Yrujo acted the part of a true friend to both countries, in trying by such arguments to reconcile his Government to the loss of Louisiana; but there were limits to his good-will. He held that Spain could not afford to part with Florida. Yrujo went to the extreme of concession when he reconciled his Government to the loss of New Orleans, and nothing would reconcile him to the further loss of Mobile and Pensacola. Only on the theory that Spanish America was already ruined by the cession of Louisiana could Yrujo argue in favor of selling Florida.

On receiving Yrujo's protests of September 4 and 27, Jefferson's first feeling was of anger. He sent a strong body of troops to Natchez. "The Government of Spain," he wrote to Dupont de Nemours,<sup>1</sup> "has protested against the right of France to transfer, and it is possible she may refuse possession, and that may bring on acts of force; but against such neighbors as France there and the United States here, what she can expect from so gross a compound of folly and false faith is not to be sought in the book of wisdom." The folly of such conduct might be clear, but the charge of false faith against Spain for protesting against being deprived of her rights, seemed unjust, especially in the mouth of Jefferson, who meant to claim West Florida under a Franco-Spanish treaty which was acknowledged by all parties to have transferred Louisiana alone.

Only a week before this letter was written, the

<sup>1</sup> Jefferson to Dupont, Nov. 1, 1803; Works, iv. 508.

scheme of seizing West Florida had been publicly avowed by John Randolph on the floor of the House. Randolph's speech of October 24, in language as offensive to Spain as was possible in the mouth of a responsible leader, asserted, as a fact admitting no doubt, that West Florida belonged to the United States.<sup>1</sup> "We have not only obtained the command of the mouth of the Mississippi, but of the Mobile, with its widely extended branches; and there is not now a single stream of note rising within the United States and falling into the Gulf of Mexico which is not entirely our own, the Appalachicola excepted." In a second speech the next day, he reiterated the statement even more explicitly and in greater detail.<sup>2</sup> The Republican press echoed the claim. Jefferson and Madison encouraged the manœuvre until they could no longer recede, and pushed inquiries in every direction,<sup>3</sup> without obtaining evidence that West Florida was, or ever had been, a part of the government of Louisiana. They even applied to Laussat,<sup>4</sup> the mortified and angry French commissioner whom Bonaparte had sent to receive possession of New Orleans; and Laussat, to the annoyance of Talleyrand and Godoy, told the truth, — that the Iberville and the Rio Bravo were the boundaries fixed by his instructions, and

<sup>1</sup> Annals of Congress, 1803–1804, p. 415.

<sup>2</sup> Annals of Congress, 1803–1804, p. 440.

<sup>3</sup> Jefferson to William Dunbar, March 13, 1804; Works, iv. 537.

<sup>4</sup> Madison to Livingston, Jan. 31, 1804; State Papers, ii. 574.



therefore that West Florida was not a part of the purchase, but that Texas was.

Notwithstanding John Randolph's official declaration, when the time came for the delivery of Louisiana the Spanish governor, Dec. 20, 1803, peacefully surrendered the province to Laussat; Laussat handed it in due form to Claiborne; and Claiborne received it without asking for West Florida, or even recording a claim for it. That this silence was accidental no one pretended. The acquiescence in Spanish authority was so implicit that Madison three months afterward, at a time when both Executive and Legislature were acting on the theory that West Florida was in Louisiana, found himself obliged to explain the cause of conduct and contradictions so extraordinary. He wrote <sup>1</sup> to Livingston at Paris that the President had for several reasons preferred to make no demand for West Florida, —

“First, because it was foreseen that the demand would not only be rejected by the Spanish authority at New Orleans, which had in an official publication limited the cession westwardly by the Mississippi and the Island of New Orleans, but it was apprehended, as has turned out, that the French commissioner might not be ready to support the demand, and might even be disposed to second the Spanish opposition to it; secondly, because in the latter of these cases a serious check would be given to our title, and in either of them a premature dilemma would result between an overt submis-

<sup>1</sup> Madison to Livingston, March 31, 1804; State Papers, ii. 575.

sion to the refusal and a resort to force ; thirdly, because mere silence would be no bar to a plea at any time that a delivery of a part, particularly of the seat of the government, was a virtual delivery of the whole."

The President's silence at New Orleans was the more conspicuous because, at the moment when the province of Louisiana was thus delivered with such boundaries as Spain chose to define, Congress was legislating for Florida as an integral part of the Union. John Randolph's official assertion that Mobile belonged to the United States under the treaty of cession, was made in the last part of October, 1803, soon after Congress met. About a month later, November 30, he introduced a Bill nominally for giving effect to the laws of the United States within the ceded territory. After much debate and disagreement this Bill at length passed both Houses, and Feb. 24, 1804, received the President's signature. The fourth section directed that the territories ceded to the United States by the treaty, "and also all the navigable waters, rivers, creeks, bays, and inlets lying within the United States, which empty into the Gulf of Mexico east of the River Mississippi, shall be annexed to the Mississippi district, and shall, together with the same, constitute one district, to be called the 'District of Mississippi.'" This provision was remarkable, because, as every one knew, no creeks, bays, or inlets lying within the United States emptied into the Gulf. The Act by its eleventh section authorized the President, "whenever he shall deem it

expedient, to erect the shores, waters, and inlets of the Bay and River of Mobile, and of the other rivers, creeks, inlets, and bays emptying into the Gulf of Mexico east of the said River Mobile, and west thereof to the Pascagoula, inclusive, into a separate district, and to establish such place within the same as he shall deem expedient, to be the port of entry and delivery for such district." This section gave the President power of peace and war, for had he exercised it, the exercise must have been an act of war; and John Randolph's previous declarations left no doubt as to the meaning in which he, who reported the Bill, meant it to be understood.

By this time Yrujo was boiling with such wrath as a Spaniard alone could imagine or express. His good-will vanished from the moment he saw that to save Florida he must do battle with President, Secretary of State, Congress, and people. One insult had followed another with startling rapidity. The President's *pêle-mêle*, of which the story will be told hereafter, wounded him personally. The cold reception of his protest against the Louisiana cession; the capitiousness of Madison's replies to his remonstrances; the armed seizure of New Orleans with which he was threatened; the sudden disregard of his friendship and great services; the open eagerness of the Government to incite Bonaparte to plunder and dismember Spain; the rejection of the claims convention in March, and its sudden approval by the Senate in January, as though to obtain all the money Spain

was willing to give before taking by force territory vital to her empire; and above all, the passage of this law annexing the Floridas without excuse or explanation,—all these causes combined to change Yrujo's ancient friendship into hatred.

In the midst of the complicated legislation about Louisiana, while the Mobile Act was under discussion, Jefferson sent to the Senate, Dec. 21, 1803, the correspondence about the Spanish claims, and among the rest an adverse opinion which Yrujo had obtained from five prominent American lawyers on an abstract case in regard to the Franco-Spanish spoliations. Madison was particularly annoyed by this legal opinion, and thought it should bring these five gentlemen within the penalties of the law passed Jan. 30, 1799, commonly known as Logan's Act. Senator Bradley of Vermont moved for a committee, which reported in favor of directing the President to institute proceedings against Jared Ingersoll, William Rawle, J. B. McKean, Peter S. Duponceau, and Edward Livingston,—five lawyers whose legal, social, and political character made a prosecution as unwise in politics as it was doubtful in law. The Senate having at the moment too many prosecutions already on its hands, let Senator Bradley's Report lie unnoticed, and soon afterward confirmed the claims convention by a vote of eighteen to eight,<sup>1</sup> — barely two thirds, the least factious of the Federalists joining the majority, and by this unpartisan act causing in the end more

<sup>1</sup> Journal of Executive Sessions, Jan. 9, 1804.

embarrassment to the party in power than the most ingenious factiousness could have plotted. Madison, in the midst of his measures for pressing the acquisition of Florida, sent the ratified claims convention to Madrid. The period fixed for ratification had long since expired, and the attitude of the United States toward Florida had altered the feelings and interests of Spain; but either Madison was unaware of the change, or he wished to embarrass Godoy. He added in his letter to Pinckney,<sup>1</sup> "It was judged best, on the whole, no longer to deprive that class of our citizens who are comprehended in the convention of the benefit of its provisions;" but although consenting to take what Spain was willing to give, he spoke with contempt of the Spanish argument against the Franco-Spanish claims, and insisted that these should be pressed without relaxation. He even complained that Yrujo, in taking the opinion of American lawyers, had failed in respect to the United States government and his own.<sup>2</sup>

Madison seemed unconscious that Yrujo could have any just cause of complaint, or that his Government could resent the tone and temper of President and Congress. The passage of the Bill which made Mobile a collection district and a part of the Mississippi territory gave Yrujo the chance to retaliate. About a fortnight after the President had signed this law, Yrujo one morning entered the State Department

<sup>1</sup> Madison to Pinckney, Jan. 31, 1804; State Papers, ii. 614.

<sup>2</sup> Madison to Pinckney, Feb. 6, 1804; State Papers, ii. 615.

with the printed Act in his hand, and overwhelmed Madison with reproaches, which he immediately afterward supported by a note<sup>1</sup> so severe as to require punishment, and so able as to admit of none. He had at first, he said, regarded as "an atrocious libel" on the United States government the assertion that it had made a law which usurped the rights of Spanish sovereignty; yet such was the case. He gave a short and clear abstract of the evidence which refuted the claim to West Florida, and closed by requesting that the law be annulled.

Madison could neither maintain the law nor annul it; he could not even explain it away. Gallatin told the President six months afterward,<sup>2</sup> that "the public mind is altogether unprepared for a declaration that the terms and object of the Mobile Act had been misunderstood by Spain; for every writer, without a single exception, who has written on the subject seems to have understood the Act as Spain did; it has been justified by our friends on that ground." Yet Jefferson was not prepared to maintain and defend the Act in its full assertions of authority, after accepting Louisiana without asking for West Florida. Madison wrote a letter of complaint to Livingston at Paris,<sup>3</sup> explaining, as already quoted, the rea-

<sup>1</sup> Yrujo to Madison, March 7, 1804; MSS. State Department Archives.

<sup>2</sup> Gallatin to Jefferson, October, 1804; Gallatin's Works, i. 211.

<sup>3</sup> Madison to Livingston, March 31, 1804; State Papers, ii. 575.



sons which had induced the President to make no demand for West Florida before ascertaining the views and claiming the interposition of the French government.

“In this state of things,” said he, “it was deemed proper by Congress, in making the regulations necessary for the collection of revenue in the ceded territory, and guarding against the new danger of smuggling into the United States through the channels opened by it, to include a provision for the case of West Florida by vesting in the President a power which his discretion might accommodate to events.”

This interpretation of the law was not in harmony with the law itself or with Randolph’s speeches ; but Madison hastened to turn from this delicate subject in order to bring another complaint against Yrujo.

“The Act had been many weeks depending in Congress with these sections, word for word, in it ; . . . it must in all probability have been known to the Marquis d’Yrujo in an early stage of its progress ; if it was not, it marks much less of that zealous vigilance over the concerns of his sovereign than he now makes the plea for his intemperate conduct. For some days, even after the Act was published in the Gazette of this city, he was silent. At length, however, he called at the office of State, with the Gazette in his hand, and entered into a very angry comment.”

The Spanish minister’s subsequent notes had been written with “a rudeness which no government can tolerate ;” but his conduct was chiefly of importance

“as it urges the expediency of cultivating the disposition of the French government to take our side of the question.”

The President came to Madison's relief. By a proclamation issued a few weeks afterward, reciting the terms of the Act of Congress in regard to the Bay and River of Mobile, he declared all these “shores, waters, inlets, creeks, and rivers, lying *within the boundaries of the United States*,” to be a collection district, with Fort Stoddert for its port of entry.<sup>1</sup> The italics were a part of the proclamation, and suggested that such could not have been the intent of Congress, because no part of the shores or waters of Mobile Bay, or of the other bays east of Mobile, lay within the boundaries of the United States. The evasion was a divergence from the words of the Act unwarranted by anything in the context; and to give it authority, Jefferson, in spite of Gallatin's remonstrance, declared in his next Annual Message that the Mobile Act had been misunderstood on the part of Spain.<sup>2</sup>

<sup>1</sup> Proclamation of May 30, 1804; State Papers, ii. 583.

<sup>2</sup> Message of Nov. 8, 1804. *Annals of Congress*, 1804-1805, p. 11.

## CHAPTER XII.

THOUGH Yrujo's language was strong, and his anonymous writings in the press were indiscreet, he had, down to the summer of 1804, laid himself open to no just official censure ; for whatever the Secretary of State might think, no one could seriously blame a foreign minister for obtaining the best legal advice in America on an abstract question of international law. The protests with which Yrujo contented himself, vigorous as they were, could neither be disavowed by his Government nor answered by Madison. Had he stopped there, his triumph would have been signal ; but fortunately for Madison, the Spaniard, with all the high qualities of his nation, had also its weaknesses, besides having the love of intrigue inherent in diplomacy. Yrujo was in his political training more American than Spanish. At home in Philadelphia, son-in-law to Governor McKean, and well acquainted with the methods of party politics, he burned to counteract the influence of the Administration press, and had no other means of doing so than by acting on Federalist editors. As no one but himself knew even a part of the truth about the Spanish imbroglio, he was obliged to be the channel for conveying his own

information to the public; and from time to time Madison read in opposition newspapers anonymous letters which bore plain marks of Yrujo's peculiar style. He had already published a pamphlet on the Louisiana cession. After his hot protest against the Mobile Act, in March, 1804, the Spanish minister left Washington, without taking leave of the Secretary of State. At length his indiscretions enabled Madison to enjoy the pleasure of seeing him keenly mortified.

Among other Federalist newspapers in Philadelphia was one called the "Political Register," edited by a man named Jackson. In September, 1804, six months after the passage-at-arms over the Mobile Act, Yrujo, then in Philadelphia, asked for an interview with Jackson, and urged him to oppose the course which the President had taken against Spain. "If you will consent," he said, "to take elucidations on the subject from me, I will furnish them, and I will make you any acknowledgment." He charged the Administration with wishing for war, and with intriguing for a rebellion among the Spaniards of West Florida.

That Yrujo or any other diplomatic agent was quite ready to use money, if by doing so he could obtain objects necessary for his purposes, need not be doubted, — although corruption of this kind in the affairs of the United States has left few traces even on the most secret diplomatic records of England, France, and Spain. In the ethical code of diplomacy

the offer of money to an editor for inserting information was no offence, but discovery was fatal ; and for this reason perhaps Yrujo told the truth when he afterward said that the use of money was not in his mind. Had he meant to bribe, he would not have exposed himself to detection, or put himself, without need, in the hands of a person over whom he held no power. Nevertheless, his blunder deserved the punishment which quickly followed.

A few days after his interview with Jackson, Yrujo left Philadelphia to visit Jefferson at Monticello. Sept. 20, 1804, immediately after his departure, Jackson printed an affidavit narrating the attempt which Yrujo had made upon his virtue; and detailing every expression of the minister which could do him most injury. As though to make Yrujo's position still more mortifying, Jackson sent this affidavit to President Jefferson ten days or more before publishing it ; and when Yrujo, ignorant of the betrayal, after passing Madison's door at Montpelier without the courtesy of stopping to inquire for the Secretary's health,<sup>1</sup> at last reached Monticello, not only his host, but every one except himself, had heard of the diplomatic scandal to which he was a party.

Jefferson received his visitor with the usual hospitality, and said not a word on the subject. Being obliged to return to Washington, the President left Yrujo, two days later, under the protection of his

<sup>1</sup> Pichon to Talleyrand, 18 Brumaire, An xiii. (Nov. 9, 1804) ; Archives des Aff. Étr., MSS.

daughter Mrs. Randolph, and set out to meet his Cabinet on the last day of the month at the Federal city. Madison was delayed at Montpelier, and could not attend the Cabinet meeting, but wrote a few days afterward :<sup>1</sup>—

“ Jackson, I find, has lost no time in giving publicity to the affair between him and Yrujo. What course the latter will take, remains to be seen. Should circumstances of any kind be thought to urge a close of the business with him, or any other arrangement with respect to it, why might not one of the other secretaries, or even Mr. Wagner, be made a channel of your sentiments and determinations? . . . Should the door be shut against further communication [through] Yrujo, and Pinckney's situation at Madrid not be contradicted, a direct communication with Cevallos appears to be the next resource.”

Already Madison flattered himself with the hope that he was to be relieved from relations with the Spaniard, whose continuance at Washington he had asked as a favor from Don Carlos IV. only three years before.

Jefferson's delicacy and hospitality were worthy of a great lord of Spain, and did honor to his innate kindness ; but they put Yrujo in an attitude so mortifying, that when he returned to Washington and learned what had taken place in his absence, he was overcome with shame at finding himself charged with calumniating his host at the moment of claiming

<sup>1</sup> Madison to Jefferson, Oct. 2, 1804 ; Jefferson MSS.



his hospitality. He immediately prepared a counter-statement and took it to the President, who replied that the matter was one which should properly belong to Madison. Yrujo then printed his letter in the "National Intelligencer," where Madison first saw it. For the moment the matter went no further; but Madison was fixed in his purpose of effecting Yrujo's recall, and when in the following spring he instructed his minister at Madrid to ask this favor, he alleged the affair of Jackson among the reasons which justified his request.

Pichon, who was in charge of the French legation, cordially disliked Yrujo, and did nothing to help him against Madison, although the relations between Spain and France were those of close alliance; but Madison next suffered a severe loss in the removal of Pichon, and in the arrival, Nov. 23, 1804, of the first minister sent by France to the United States since the departure of Adet in President Washington's time. The new appointment was not a happy one. Pichon had carried friendliness so far as on several serious questions to take sides with the United States government against his own, and had fallen into disfavor with Napoleon in consequence. The new minister was little likely to repeat this blunder. Napoleon liked military discipline in all things; and he sent as his minister to Washington a former general of the Republic, Louis Marie Turreau, best known for the extreme severities he was charged with having inflicted on the Vendéans in 1794. Like most of

the republican generals, including even Moreau and Bernadotte, Turreau accepted the *coup d'état* of the 18th Brumaire, and was for private reasons anxious to obtain some position far removed from France. According to his own story, he had during the Ven-dean war been so unfortunate as to be saved from death, in a moment of extreme danger, by a woman's self-sacrifice. In token of his gratitude he married his preserver; but from that time his life became a long regret. His wife's temper was terrible; his own was querulous and morbidly depressed. Although he could speak no English, had no diplomatic experience and little taste for general society, he sought the post of minister resident at Washington in order to escape his wife. To his extreme annoyance, she followed him to America; and Washington resounded with the scandal of their quarrels, which reached the extremity of pitched battles. He wrote to his friends in the French Foreign Office that he was almost mad with mortification and despair.

Such a minister was not happily chosen for the difficult task on hand; but Bonaparte loaded him with other burdens, of a kind even more embarrassing to a diplomatist. At best, the position of a French minister in America was not agreeable. The mere difference in habits, manners, amusements, and the want of a thousand luxuries and pleasures such as made Paris dear to every Frenchman, rendered Washington a place of exile. Perhaps nothing but fear of the guillotine could have reconciled even

republican Frenchmen to staying in a country where, in the words of Talleyrand, there was no Frenchman who did not feel himself a stranger; but if this were true while France was a republic fighting the battles of American democracy, it became doubly true after Bonaparte had crushed French liberties and made himself the foremost enemy of republican ideas. Turreau arrived at Washington about six months before Bonaparte took the title of Emperor; and he found that as representative of Napoleon I. he could never hope for a friend in the United States, unless it were among a few bankrupt adventurers, who to retrieve their broken fortunes would have liked to see an 18th Brumaire at New Orleans, which should give an imperial crown and the mines of Mexico to Aaron Burr and his troop of embryo dukes and marshals.

As though to embarrass his representative to the utmost, Bonaparte deprived him of the only means by which he could win even the venal respect of a money-making people. At one stroke the First Consul had annulled and sent to protest all the drafts drawn under Rochambeau's orders by the fiscal administrator of St. Domingo.<sup>1</sup> His avowed reason was that every bill of exchange or draft on the public treasury which did not purport to rest on the authority of a letter from the minister authorizing the expenditure, should not be paid. The true reason was that he had

<sup>1</sup> Note du Premier Consul, 2 Floréal, An xi. (April 22, 1803); Correspondance, viii. 288.

determined to waste no more money on St. Domingo, but to sacrifice his army there under cover of a war with England, which required all the means then at his disposal. Rochambeau's expenditures were becoming wild; but thus far his drafts on the Treasury were regularly drawn. They had been taken in good faith throughout the West Indies and in every commercial city on the American seaboard; they rested on the national credit of France, and their repudiation destroyed French credit in America, public and private. Before Turreau sailed for his post, the credit of his Government was at an end in the United States. Not only had the drafts drawn in St. Domingo been refused payment, but Pichon's had also suffered the same fate; and neither the new minister nor his consuls could find a man in Baltimore, Philadelphia, or New York to advance money on their official signatures. Turreau complained bitterly to Talleyrand of the penury and mortification to which he was condemned. In one of his despatches<sup>1</sup> he reported that at a tavern in Baltimore one of the French agents, not known to be such, was offered French government paper at fifty per cent discount, and at the same time five per cent premium for drafts on the British government. "In short, we are brought to such a state of affairs that private discredit follows the discredit of the nation, and I experience it for my own individual drafts."

<sup>1</sup> Turreau to Talleyrand, 23 Floréal, An xiii. (May 13, 1804); Archives des Aff. Étr., MSS.

Owing to these circumstances, Turreau declared that his position was hardly tolerable; but even apart from such matters, he found a formidable legacy of diplomatic difficulties left by Pichon to be settled. The question of trade with St. Domingo, of boundary on both sides of Louisiana, the Spanish imbroglio, the unpaid claims on France, and the repudiated drafts negotiated by Pichon in the United States, were all matters which Turreau was required to master and manage; but none of them gave him more trouble than the personal quarrel between his colleague Yrujo and the Secretary of State.

Yrujo's affair with Major Jackson occurred in September, 1804, and Turreau, reaching Washington in the following November, was soon obliged to take part in Yrujo's feuds. Not only the tone of his instructions, but the increasing certainty that Spain must side with France in the war against England, obliged him to make common cause with the Spanish minister, who came from Philadelphia to Washington in order to invoke his services. The result was told in a despatch to Talleyrand: <sup>1</sup>—

“Following your instructions and the request of M. d'Yrujo, I consented to an interview with him at Mr. Madison's. . . . I had no trouble in perceiving from the outset of the conversation that Mr. Madison and M. d'Yrujo cordially detested each other, and in the discussion that their passions took the place of reason and law.”

<sup>1</sup> Turreau to Talleyrand, 6 Pluviôse, An xii. (Jan. 27, 1805); Archives des Aff. Étr., MSS.

This discussion naturally turned on the question of West Florida; and unfortunately for Madison, Turreau's instructions on that point were emphatic in support of Spain. Turreau was obliged to enter the lists in defence of Yrujo's position.

"I mixed in the discussion only in order to represent to Mr. Madison, who is unwilling to stop at the treaty of 1762, that in general the last conventions were those which ought to guide in negotiations; otherwise, if each party invoked the antecedent ones in favor of his system, we should be forced to go back to the Deluge to find the primitive title. 'But, General!' replied Mr. Madison, 'we have a map which probably carries to the Perdido the eastern limit of Louisiana!' — 'I should be curious to see it, sir; the more, because I have one which includes Tennessee and Kentucky in Louisiana. You will agree that maps are not titles.' The Secretary of State closed this session, which lasted two long hours, by saying that if Spain had always conducted herself toward the United States as well as France had done, the difficulties would not have taken place. I did not think myself called upon to appear very grateful for this kind of cajolery."

Turreau did not want keenness of insight; and this early experience gave him no high respect either for Madison or for the American system of government. His despatch explained that the dispute was in great part due to the fact that the Louisiana purchase had been made a battle-ground in the Presidential election just ended; that the opposition, by depreciating its importance, had driven the party in power to exaggerate its value; and that the Administration, to



assure itself of victory, had committed itself to the policy of obtaining Florida by one means or another, till it could no longer recede. Yrujo's indiscretions had helped to make it impossible for Jefferson to withdraw with dignity from his position.

“For the rest,” continued Turreau, “I have made every effort to reconcile M. d’Yrujo with the Secretary of State, and if I have not succeeded, it is the fault of the latter. He is dry (*sec*), spiteful (*haineux*), passionate; and his private resentments, still more than political difference, will long keep him apart from M. d’Yrujo. Nevertheless, as I am on very good terms with Mr. Madison, whom I was about to ask to dine with me, I sent my first aide-de-camp to ask him whether he would be pleased to meet the Spanish minister at dinner; and in consequence of his very civil and even obliging answer, I had them together at my table, where I again attempted a reconciliation. M. d’Yrujo would have agreed to it; but the Secretary of State cannot forgive.”

Finally, Turreau called Talleyrand’s attention to the question whether it was for the interest of France and Spain that Yrujo should be kept at Washington:—

“Doubtless the Government here wishes for his recall, and regards this step as the duty of the Court at Madrid, the more because Mr. Pinckney has been recalled; but ought the Spanish minister to be changed because the American government wishes it? This point deserves attention. These people here have been well spoiled; it is time to send them back to their proper place.”

The quarrel with Yrujo was the more unfortunate because it happened at a moment when Charles Pinckney, the American minister at Madrid, showed extreme want of discretion. The President had not intended to leave Pinckney unassisted. After the conclusion of the Louisiana treaty, in May, 1803, Madison supposed that Monroe, in obedience to his instructions, would go at once to Madrid and take the negotiation from Pinckney's hands.<sup>1</sup> For reasons that will hereafter appear, Monroe decided against this step, and went to London instead. On learning the change of plan, Madison warned Pinckney<sup>2</sup> to make no propositions to the Spanish government, which was not yet in a humor to receive them with favor. Pinckney, restive under restraint, managed to keep up an appearance of diplomatic activity that greatly vexed the Secretary of State. Madison complained<sup>3</sup> to the President that his minister at Madrid teased the Spanish government on the subject of Florida, which he had been ordered not to touch without the presence or the advice of Monroe; forbidden to make but permitted to accept offers, he was continually offering to accept; while Livingston at Paris, equally restive under the imposed authority of Monroe, could not resist the temptation to stimulate Pinckney and offer advice both to France and Spain. Madison's complaints

<sup>1</sup> Madison to Monroe, July 29, 1803; State Papers, ii. 626. Madison to Pinckney, July 29, 1803; State Papers, ii. 614.

<sup>2</sup> Madison to Pinckney, Oct. 12, 1803; State Papers, ii. 570.

<sup>3</sup> Madison to Jefferson, April 9, 1804; Jefferson MSS.

were well founded ; but when he wrote in this sense to Jefferson, he had not begun to appreciate the full measure of diplomatic activity which his minister at Madrid was capable of displaying.

Yrujo always managed to embarrass the American government without seriously committing his own ; but Pinckney showed no such forbearance, and by the close of the year 1804 drew Madison into a mortifying position. He began his activity in July, 1803, immediately after hearing that Monroe had given up the proposed visit to Madrid, and had gone to London. Without waiting to learn how this change of plan and the purchase of Louisiana might affect the President's views toward Spain, Pinckney, to use his own words,<sup>1</sup> "pushed the new propositions respecting our claims in that positive and decided manner which the circumstances of Europe and the particular situation of Spain seemed to me to warrant." Cevallos contented himself with parrying this attack by giving to Pinckney the written opinion obtained by Yrujo from the five American lawyers in support of his argument that the United States, by their treaty with France of Sept. 30, 1800, had renounced their right to demand indemnity for losses sustained from French cruisers.<sup>2</sup>

Both parties next appealed to the French ambassador at Madrid. The Prince of Peace, though irritated by the sale of Louisiana, quickly saw that his

<sup>1</sup> Pinckney to Madison, Aug. 2, 1803 ; State Papers, ii. 597.

<sup>2</sup> Cevallos to Pinckney, Aug. 23, 1803 ; State Papers, ii. 604.

only chance of retaining Florida was to conciliate Bonaparte ; and Pinckney, who knew that the French ambassador at Madrid had been instructed to support Monroe in negotiating for Florida, counted on the same aid in order to maintain a threatening attitude. The result was soon seen. Pinckney, disturbed by the news of Yrujo's protest against the sale of Louisiana, turned to the French ambassador for advice.<sup>1</sup> Beurnonville accordingly wrote to Talleyrand for instructions ; but Talleyrand had already sent to the Spanish embassy at Paris a note of sharp remonstrance against the protest.<sup>2</sup> Beurnonville, learning this, asked the Prince of Peace for explanations ; and Godoy hastened to assure him that Bonaparte might be at ease on this score, for orders had been sent to New Orleans to surrender the province without opposition, and already Yrujo had been instructed to change his tone at Washington.<sup>3</sup> Soon afterward Cevallos formally notified Pinckney that the King renounced his opposition to the cession of Louisiana.<sup>4</sup> In due time Yrujo sent to the State Department a formal note to the same effect.<sup>5</sup>

At the cost of recognizing the Louisiana cession,

<sup>1</sup> Beurnonville to Talleyrand, 18 Nivôse, An xii. (Jan. 9, 1804) ; Archives des Aff. Étr., MSS.

<sup>2</sup> Talleyrand to D'Hervás, 12 Nivôse, An xii. (Jan. 3, 1804) ; Archives des Aff. Étr., MSS.

<sup>3</sup> Beurnonville to Talleyrand, 21 Nivôse, An xii. (Jan. 12, 1804) ; Archives des Aff. Étr., MSS.

<sup>4</sup> Cevallos to Pinckney, Feb. 10, 1804 ; State Papers, ii. 583.

<sup>5</sup> Yrujo to Madison, May 15, 1804 ; State Papers, ii. 583.

Godoy pacified Bonaparte, who stood in need of Spanish support. From that moment Pinckney begged in vain for help from the French ambassador at Madrid, although the need of aid increased from day to day. Just as his first and least important point, the withdrawal of Yrujo's protest, was gained at Madrid, the Government at Washington created new difficulties about his path. At the moment when Beurnonville, Talleyrand, and Pinckney wrung from King Charles his adhesion to the Louisiana treaty, the Senate at Washington, Jan. 9, 1804, ratified the Spanish claims convention, which had been negotiated by Pinckney nearly eighteen months before, and had been held an entire year under consideration by the Senate. The last article of this convention provided, as usual with such instruments, that it should have no effect until ratified by both parties, and that the ratifications should be exchanged as soon as possible. So far from performing its part of the contract, the Senate had at one moment refused to ratify at all, and after reconsidering this refusal, had delayed ratification an entire year, until the relations of the two parties had been wholly changed. The idea that the King of Spain was bound to ratify in his turn, implied excessive confidence in his good-nature; but Madison, in sending the ratified treaty to Pinckney, suggested no suspicion that Charles IV. might have changed his mind, and gave not a hint to Pinckney of the course to be followed in such a contingency. The Mobile Act had not yet become law, and Yrujo

was waiting for its signature by the President before waking Madison from his dreams of doing what he pleased with Spanish property.

Early in February, 1804, Madison sent these new instructions to Pinckney, inclosing the ratified treaty, and instructing him in effect to press the reserved claims for French spoliations in Spanish ports. The despatch reached Pinckney in May, and he went at once to Cevallos for the ratification. To his great annoyance Cevallos made difficulties. During the discussion, Cevallos received from Yrujo a copy of the Mobile Act, which he sent to Pinckney May 31, with a demand for explanations. Pinckney replied in a tone little short of dictatorial.<sup>1</sup>

“Permit me on this subject to remind your Excellency,” said he, “that on the first intelligence being received of the cession of Louisiana, I communicated verbally to your Excellency and the Prince of Peace the contents of an official letter I had received from Mr. Livingston and Mr. Monroe, informing me that they considered a great part of West Florida, as so called by the English, as included. Such letter could not have been written officially to me by them without their having been so informed by the French plenipotentiary and government.”

Pinckney urged that the two subjects should be kept separate. “Do not show the United States that you have no confidence either in their honor or justice, — qualities on which they value themselves more than on power or wealth.”

<sup>1</sup> Pinckney to Cevallos, June 1, 1804; State Papers, ii. 618.



Unfortunately Pinckney's note obliged Spain to show want of confidence in the "honor or justice" of the United States, unless indeed she meant to acquiesce in losing Florida as well as Louisiana. Pinckney next appealed to the French ambassador for help.<sup>1</sup> "I took the course of giving Mr. Pinckney an obliging but vague answer," said Beurnonville, writing for instructions to Talleyrand. Cevallos, on his side, wrote to Admiral Gravina, the Spanish ambassador at Paris, instructing him to remonstrate with Talleyrand against Pinckney's conduct. After a month's delay, Cevallos, in answer to Pinckney's letters, sent a sharp note,<sup>2</sup> offering to ratify the convention on three conditions, — one being that the reserved claim for French spoliations should be abandoned, and another that the Mobile Act should be revoked.

Without waiting for further instructions, or even consulting Monroe at London, Pinckney next wrote to Cevallos a letter which surpassed all indiscretions that Madison could have imagined. Requesting Cevallos "merely to answer this question," whether ratification was refused except on the conditions specified, he added :<sup>3</sup> —

"I wish to have your Excellency's answer as quickly as possible, as on Tuesday I send a courier with circular letters to all our consuls in the ports of Spain, stating to

<sup>1</sup> Beurnonville to Talleyrand, 18 Prairial, An xii. (June 7, 1804) ; Archives des Aff. Étr., MSS.

<sup>2</sup> Cevallos to Pinckney, July 2, 1804 ; State Papers, ii. 619.

<sup>3</sup> Pinckney to Cevallos, July 5, 1804 ; State Papers, ii. 620.

them the critical situation of things between Spain and the United States, the probability of a speedy and serious misunderstanding, and directing them to give notice thereof to all our citizens; advising them so to arrange and prepare their affairs as to be able to move off within the time limited by the treaty, should things end as I now expect. I am also preparing the same information for the commander of our squadron in the Mediterranean, for his own notice and government, and that of all the American merchant-vessels he may meet."

Cevallos immediately answered <sup>1</sup> that as he could not comprehend the motive for "breaking out in the decisions, not to say threats," of this letter, or how it was possible that Pinckney could have the authority of his government for such conduct, he should by the King's order transfer the negotiation to Washington. Pinckney rejoined by despatching his circular letter, which created a panic in the Mediterranean. He then informed Cevallos that so soon as his affairs could be arranged, he should send for his passports and quit Madrid.<sup>2</sup>

Although this step was in the highest degree improper, Pinckney had some excuse for his conduct. Left without instructions in the face of an emergency which might have been foreseen at Washington, he argued that his government, which had officially annexed West Florida, meant to support its acts with a strong hand. He thought that the issue presented

<sup>1</sup> Cevallos to Pinckney, July 8, 1804 ; State Papers, ii. 620.

<sup>2</sup> Pinckney to Cevallos, July 14, 1804 ; State Papers, ii. 621.

by Cevallos was such as the President was bound to take up, and he knew that the only chance of carrying the points which the President had at heart was in energetic action. For three years he had watched the peremptory tone of France and England at Madrid, and had been assured by the common voice of his diplomatic colleagues that threats alone could extort action from the Spanish government. He had seen the Prince of Peace, after resorting to one subterfuge after another, repeatedly forced to cower before the two great robbers who were plundering Spain, and he explained to Madison the necessity of imitating their example if the President meant that Spain should cower before the United States. Perhaps he felt that Godoy looked on the President at Washington as the jackal of Bonaparte, and he may have wished to prove that America could act alone. His eager ambition to make himself as important as the representatives of France and England in the eyes of Europe might imply vanity, but rested also on logic.

The first result of this energetic tone was not what Pinckney had hoped. Cevallos was outwardly unmoved; Pinckney's violence only caused him to lay aside that courtesy which was the usual mark of Spanish manners. His official notes were in outward form still civil enough, but in two or three conversations Pinckney listened to a series of remarks as blunt as though Lord Harrowby were the speaker. Pinckney reported to Madison the tenor of

these rough rejoinders.<sup>1</sup> Cevallos told him that the Americans, ever since their independence, had been receiving the most pointed proofs of friendship and generosity from Spain, who, as was well known, received no benefit from them, — on the contrary, their commerce was extremely injurious to Spain; the Spanish government had ten times more trouble with them than with any other nation, and for his part, he did not wish to see the trade with the United States extended. Spain had nothing to fear from the United States, and had heard with contempt the threats of senators like Ross and Gouverneur Morris. The Americans had no right to expect much kindness from the King; in the purchase of Louisiana they had paid no attention to his repeated remonstrances against the injustice and nullity of that transaction, whereas if they had felt the least friendship they would have done so. They were well known to be a nation of calculators, bent on making money and nothing else; the French, and probably in the result all the nations having possessions in the West Indies, would be materially injured by them, for without a doubt it was entirely owing to the United States that St. Domingo was in its present situation.

Pinckney received <sup>2</sup> at the same time what he called secret intelligence on which he could implicitly rely,

<sup>1</sup> Pinckney to Madison, July 20, 1804; MSS. State Department Archives.

<sup>2</sup> Pinckney to Madison, July 20, 1804; MSS. State Department Archives.

that Cevallos meant to create indefinite delays to the ratification, for Yrujo had written that neither these nor the French spoliation claims, nor West Florida, would induce the American government to depart from its pacific system. France had indeed gone to the point of advising and even commanding Spain to relinquish her claim on Louisiana, and this was the reason why Spain had so quietly given it up; but in regard to the spoliations, France preferred not to see them paid, as the more money Spain paid America the less she could pay France, and France knew as well as Spain how little serious was the American government in the idea of abandoning its neutrality.

Pinckney having done his worst, found himself in a position extremely awkward. Although he threatened to leave Spain, and proclaimed that he meant soon to demand his passports, he did not venture to take this last step without instructions. Cevallos, excessively perplexed by his conduct, could not conceive that he should act thus without some definite authority. Boldly as Cevallos talked, he was in truth greatly alarmed by the idea of war. The French representative at Madrid wrote to Talleyrand that Pinckney had terrified the secretary beyond reason:<sup>1</sup>—

“The difficulty of making himself understood by M. de Cevallos in a language with which he is not familiar, excites Mr. Pinckney to fly out in terms beyond moderation and proper civility. He positively threatens war,

<sup>1</sup> Vandeul to Talleyrand, 7 Thermidor, An xii. (July 26, 1804); Archives des Aff. Étr., MSS.

and loudly announces his resolution shortly to demand his passports. The truth is that he is preparing to depart, and finds himself almost deprived of power to remain, not only in consequence of his personal altercation with the minister, but also of the care with which he has taken the public into his confidence. . . . M. de Cevallos seems to me to be quite seriously alarmed at the results this may have."

Ten days later the Frenchman reported that Cevallos was more uneasy than ever.<sup>1</sup>

" 'If the Emperor,' added M. de Cevallos, 'would but say a word, and let the United States understand that he is not pleased at seeing them abuse the advantages which they owe to their strength and to the nearness of their resources over an ally of France, this would reconcile all difficulties, and save his Majesty the necessity of exacting satisfaction for an insult which is as good as inflicted.' "

The Frenchman, having no instructions, contented himself with suggesting that the Emperor had more pressing matters on hand. " 'So,' said M. de Cevallos, 'France will have caused our actual misunderstanding with our neighbors, and we are to expect no service from her influence! ' "

While Cevallos thus invoked the aid of France, the news of Pinckney's war slowly crossed the Atlantic. No sooner did it arrive than Yrujo in the middle of October, shortly after his attempt to seduce the patriotism of Major Jackson, wrote to the Secretary

<sup>1</sup> Vandeul to Talleyrand, 18 Thermidor, An xii. (Aug. 6, 1804); Archives des Aff. Étr., MSS.



of State a formal letter,<sup>1</sup> repeating what had already been said to Pinckney at Madrid. Madison's reply was studiously moderate and conciliatory.<sup>2</sup> He explained as best he could the offensive language of the Mobile Act, and announced that a special minister would soon reach Madrid, to hasten the adjustment of all territorial disputes; he deprecated the demand for an abandonment of the French claims, and argued that such a condition of ratification was not supported by international law; he urged Yrujo to give assurances of an unqualified ratification, but he said not a word about Pinckney's performances, and gave it to be understood that Pinckney would be recalled. A few days afterward he wrote to Monroe, ordering him in haste to Spain. "The turn which our affairs at Madrid have taken renders it expedient in the judgment of the President that you should proceed thither without delay."<sup>3</sup> In another letter, written at nearly the same time, he was more explicit:<sup>4</sup> —

"Pinckney's recall has been asked by the Spanish government, and a letter of leave goes to him. I suspect he will not return in good humor. I could not permit myself to flatter him, and truth would not permit me to praise him. He is well off in escaping reproof, for his agency has been very faulty as well as feeble."

<sup>1</sup> Yrujo to Madison, Oct. 13, 1804; State Papers, ii. 624.

<sup>2</sup> Madison to Yrujo, Oct. 15, 1804; State Papers, ii. 625.

<sup>3</sup> Madison to Monroe, Oct. 26, 1804; State Papers, ii. 631.

<sup>4</sup> Madison to Monroe, Nov. 9, 1804; Works, ii. 208.

The first attempts to overawe Spain had failed. Pinckney, not disavowed but ignored, fell into the background ; and once more Monroe stepped forward to rescue the Administration. When these instructions were written, he had already reached Paris on his way to Madrid ; but Madison, undeterred by Pinckney's disaster, still persisted in advising him to place his main reliance " in a skilful appeal to the fears of Spain." <sup>1</sup>

<sup>1</sup> Madison to Monroe, Nov. 9, 1804; Works, ii. 208.

## CHAPTER XIII.

HARDLY was the Louisiana treaty sent to America in May, 1803, when Monroe began preparations for a journey to Madrid. The outbreak of temper with which Godoy and Cevallos received the news that Spain had been secretly deprived of Louisiana, caused Bonaparte to feel that further maltreatment of his ally was for the moment unwise; and he interposed a sudden veto on Monroe's journey. "With respect to Florida, this is not the time to pursue that object," said he, when Monroe came to take leave.<sup>1</sup> The Consul Cambacérès echoed the warning: "You must not go to Spain at present; it is not the time; you had better defer it." The Third Consul Lebrun spoke in the same tone. Monroe took the advice, and abandoned the journey to Madrid. In July he crossed the Channel to London, and Aug. 17, 1803, was duly presented to George III. as the successor of Rufus King, who had already returned to America. Livingston remained at Paris to manage the relations with Napoleon.

<sup>1</sup> Monroe to Madison, July 20, 1803; MSS. State Department Archives.

In spite of success that should have filled his cup of ambition to overflowing, Livingston was far from satisfied. Neither the President nor the Secretary of State liked him; and to the latter he was a possible rival, who might become dangerous if the authority of President Jefferson, which was Madison's great support, should wane, and should New York claim the presidency from Virginia. Monroe distrusted Livingston, believing him to grasp at the whole credit of the Louisiana treaty, and to be intriguing to withdraw the Florida negotiation from Monroe's hands by causing its transfer from Madrid to Paris.<sup>1</sup> The Secretary of State was perpetually annoyed by his minister. Sometimes Livingston experimented on Spain, sometimes on England. At one moment he sent to the First Consul an indiscreet memorial that brought a remonstrance from the British government; at another he fell into a virulent quarrel with the American claims commissioners under the Louisiana treaty. His claims convention was admitted to be full of mistakes which he did not himself attempt to defend, while the American consul at Paris declared that his conduct in regard to certain claims was dictated by blind and insatiable vanity, if not by corrupt and criminal motives.<sup>2</sup>

Mistakes cost Livingston little serious annoyance;

<sup>1</sup> Monroe's Memoranda, Monroe MSS., State Department Archives.

<sup>2</sup> Skipwith to Madison, Feb. 21, 1804; State Department Archives.

but although he could afford to disregard British complaints or Consul Skipwith's abuse, or even the severe criticisms of the claims commissioners, he must have had more than human patience to sit quiet under the superiority of Monroe. He knew that whatever diplomatic credit was due for the Louisiana negotiation rightly belonged to him, and that Monroe had no claim to any part of it, except that of supporting and approving what was already accomplished; yet he saw the Administration and the public attribute the chief honor to his rival. He showed his wounded self-esteem in protests and statements to which the world was deaf. His old Federalist friends took malicious pleasure in telling him that his triumph had offended the vanity of Jefferson.<sup>1</sup>

Consoling himself with the reflection that he should insist on returning to America in the autumn of 1804, Livingston endured these annoyances as he best could, and found in the society of Robert Fulton and Joel Barlow the hope of greater fame and profit than political distinctions could possibly bring. While he watched and encouraged Fulton's experiments with the steamboat, clouds gathered more and more thickly round his diplomatic path. The First Consul had never inspired him with much confidence; but after the rupture of the Peace of Amiens, in May, 1803, Bonaparte's acts became more and more alarming to every Republican. He passed the autumn of 1803

<sup>1</sup> Gouverneur Morris to Livingston, Nov. 28, 1803; Sparks's Morris, iii. 188.

in preparations for a descent on England. He next effected, in February, 1804, the arrest, trial, and banishment of Moreau. The seizure and arbitrary execution of the Duc d'Enghien followed a month afterward, and finally, in May, 1804, the proclamation of the Empire.

In the midst of these events Livingston received from home the letter already quoted, in which Madison told the story of the Mobile Act, and complained of Yrujo's violent conduct. "The correspondence is chiefly of importance," said the Secretary of State, "as it urges the expediency of cultivating the disposition of the French government to take our side of the question." Livingston was personally rather inclined to the opposite course. He had little faith in obtaining favors from the Emperor, and no disposition to place the United States in the attitude of begging for them; but he had not the chief share in shaping action. A few weeks after receiving these instructions, when he heard of the *quasi* war which Pinckney in July declared at Madrid, Livingston was already expecting the arrival of his successor, General Armstrong, in the autumn.

The news from Spain reaching London, startled Monroe from his repose. As soon as he could make ready, Oct. 8, 1804, placing his legation in charge of a secretary, Monroe left London. While he waited in Paris to sound the disposition of Talleyrand, General Armstrong arrived to relieve Livingston. Thus it happened that three American ministers — Monroe,



Livingston, and Armstrong — met at Paris in November, 1804, to cope with Talleyrand, in whose hands lay the decision of Jefferson's quarrel with Spain.

The question to be decided was whether the United States government should disregard its obligations to Napoleon and act independently, or whether the President should defer to the opinion of Talleyrand and to the Emperor's will. The story of diplomatic adventure, which has so often an interest beyond what could be supposed possible from the contact of three or four quiet and elderly gentlemen meeting about a green table, or writing letters inordinately long, owes that interest in most cases to a hope or a despair, to a mystery or an elucidation; but Monroe's labors at that time offered little mystery, and less hope. Although he did not know all that was happening behind the diplomatic curtain, he knew enough to be aware that his negotiation for Florida, on the ground chosen by the President, was hopeless.

Three months had passed since Cevallos made his appeal to Talleyrand for help. "If the Emperor would but say a word," Cevallos urged;<sup>1</sup> "if he would make the United States understand that he will not be pleased at seeing them abuse their advantages," — this would put an end to insults like the Mobile Act and Pinckney's threats. Talleyrand's answer could not be doubtful. Angry with Jefferson, Madison, Monroe, and Livingston for their attack on

<sup>1</sup> Vandeul to Talleyrand, July 26 and Aug. 6, 1804; Archives des Aff. Étr., MSS.

West Florida, into which his own and his master's finessing had drawn them ; still angrier with Pinckney for the burlesque of Napoleonic manners with which he alarmed the government of Spain ; hostile at heart to Bonaparte's ultimate schemes against the Spanish empire, but determined that if Spain were to be plundered France should have the booty ; willing to repay a part of the humiliation and disappointment which the United States had twice inflicted upon him, — the instant the Spanish ambassador at Paris brought the Mobile Act to his notice, Talleyrand assured him with emphasis that the Emperor would formally oppose such pretensions on the part of the United States ;<sup>1</sup> and when Pinckney's conduct was reported to him, with the request that the Emperor would instruct his minister at Washington to act in concert with Yrujo in order to prevent a rupture, Talleyrand hastened to meet the wish of the Spanish government.

Cevallos made other requests. After narrating the history of Pinckney's claims convention, he touched briefly on the claim for French spoliations which the Americans so warmly urged against Spain, and he asserted that Lucien Bonaparte had given an assurance that these claims were covered by the Franco-American treaty of 1800, and therefore could not be pressed against Spain. He complained that Pinckney

<sup>1</sup> Gravina to Talleyrand, July 24, 1804 ; Archives des Aff. Étr., MSS. Cevallos to Monroe and Pinckney, 16 Feb. 1805 ; State Papers, ii. 643.

had used "language the most gross, the most insulting, and, so to speak, the most audacious and menacing." He called attention to the dangers which would result from allowing the boundary of Louisiana to be extended toward either Florida or Mexico; and he begged "that orders might be sent to the French commissioner Laussat in Louisiana, enjoining him to restrain the pretensions of the Americans regarding the limits of that province, and not to show himself favorable to the wishes of the Americans, as there is reason to suspect him of doing, according to his correspondence with the Spanish commissioner."

Laussat's offence consisted in telling the American commissioners that his instructions fixed the Rio Bravo as the western boundary of Louisiana. Cevallos made no protest to Talleyrand against the truth of Laussat's statement. He tacitly admitted that Laussat was right; but he invited Talleyrand to join in depriving the United States of Texas, which the United States had bought, and the price of which they had paid to France. That Godoy should conspire for this purpose was natural, for he had no reason to respect the Louisiana cession, and he had pledged his honor in no way to the United States; but that he should ask Napoleon to deprive the United States of property which Napoleon himself had bought from Spain and sold to the United States, and for which he had received some millions of coin for his personal objects and ambitions, showed that the Prince of Peace understood the characters of Bonaparte and Talleyrand.

Talleyrand, who held that Bonaparte had made a mistake in selling Louisiana to the United States, and who looked upon himself as having no responsibility for the transaction, was glad to restrict what he thought the evil that had been done. Taking the complaints of Spain to the Emperor, he received permission to do what Spain requested; and during the month of August he sent from the Foreign Office a series of documents that disposed for the time of any hopes still nourished by Jefferson's diplomacy.

These three papers were too important to be forgotten. French diplomatic writings were models of concise, impassive clearness, contrasting with the diffuse and argumentative, if not disputatious, style which sometimes characterized American and Spanish official correspondence. These three short letters offered examples of French methods. The first was addressed to General Turreau at Washington, and concerned the boundaries of Louisiana toward the west:<sup>1</sup>—

“If the Mississippi and the Iberville trace with precision the eastern boundary of that colony, it has less precise limits to the westward. No river, no chain of mountains, separates it from the Spanish possessions; and between the last settlements of Louisiana and the first of those in the Spanish colonies are frequently to be found intervals so great as to make a line of demarcation difficult to agree upon. So Spain already appears to fear that the United States, who show an intention of

<sup>1</sup> Talleyrand to Turreau (No. 99), 20 Thermidor, An xii. (Aug. 8, 1804); Archives des Aff. Étr., MSS.

forcing back the western limits of Louisiana, may propose to advance in this direction to the ocean, and establish themselves on that part of the American coast which lies north of California.”

Turreau was directed to divert the United States government from the idea of extension toward the west and northwest in any manner that might annoy Spain. He was to employ means of persuasion and friendly influence for this purpose, rather than to act officially; all official action being reserved for objects directly interesting France.

The second document<sup>1</sup> was also addressed to Turreau, but was more decided in tone, as though the Emperor himself had dictated its language. After a brief allusion to Pinckney's claims convention and the American theory that Spain was responsible for French spoliations which she had not prevented, Talleyrand continued:—

“That convention, made under date of Aug. 11, 1802, is posterior by — months to that which France concluded with the United States, the 8th Vendemiaire, An ix. (30 Sept. 1800), and which declared that no indemnity should be given for prizes made by either of the two Powers. This Article ought to leave the Americans no hope that prizes made against them on Spanish shores would be excepted and paid for; it would be useless for them to suppose that it is Spain from whom they seek these indemnities: Spain, who would have only the advances to

<sup>1</sup> Talleyrand to Turreau (No. 101), 27 Thermidor, An xii. (Aug. 15, 1804); Archives des Aff. Étr., MSS.

pay, would afterward recur to France for reimbursement. It is, then, upon France that this charge would ultimately fall; and as we are relieved by the convention of Sept. 30, 1800, from every kind of debt relating to prizes, we can only with some surprise see the United States seeking to obtain from another government a part of the indemnities which they had decidedly renounced in their convention with France. Spain had doubtless lost sight of these considerations, and had not in view this convention of ours, when her plenipotentiary signed that of Aug. 11, 1802, which the United States now require her to ratify. Circumstances which have since taken place have, fortunately, furnished Spain with an occasion for retracing the false step she took in signing this convention. The Federal government, which by different acts relative to the Floridas has violated the sovereign rights of Spain, and which for more than eighteen months has refused to ratify its convention with her, has lost the right to complain because the Court of Madrid now imitates its refusal, and insists upon making such modifications in this treaty as the lapse of time may make it think necessary and better suited to its rights and dignity."

After sending these instructions to Turreau, the French Minister for Foreign Relations next turned to Spain, and wrote a note intended to reassure Cevallos. The peculiar interest of this document lay in the spirit it showed toward the United States. Cevallos had invited an understanding as to the boundaries of Louisiana to be alleged against the United States. These boundaries, defined eighteen months before in the secret instructions for Victor, a copy of which was



given to Laussat, declared the Rio Bravo to be the western limit of Louisiana:<sup>1</sup> "Bounded on the west by the river called Rio Bravo, from the mouth of this stream up to the 30th parallel, beyond this point the line of demarcation ceases to be traced, and it seems that there has never been an agreement as to this part of the frontier." That Laussat meant to act on these instructions was proved by his language to Governor Claiborne and General Wilkinson.<sup>2</sup> "M. Laussat confidentially signified" to these two American commissioners that the territory "did not comprehend any part of West Florida; adding at the same time that it extended westwardly to the Rio Bravo, otherwise called Rio del Norte." Although Cevallos had remonstrated against the indiscretion of this statement, he had not suggested that Laussat was in error;<sup>3</sup> he merely invited Talleyrand to check a subordinate officer, in order to limit American pretensions. In accordance with this hint, Talleyrand marked for the Spanish government the line it was to take in resisting the American claim to territory for which France had received the purchase money.

After defining the eastern boundary of Florida as

<sup>1</sup> Instructions secrètes pour le Capitaine-Général de la Louisiane, approuvées par le Premier Consul le 5 Frimaire, An xi. (Nov. 26, 1802), Archives de la Marine, MSS.

<sup>2</sup> Madison to Livingston, March 31, 1804; State Papers, ii. 575.

<sup>3</sup> Cf. *Memoir upon the Negotiations between Spain and the United States of America*. By Don Luis de Onís. Madrid, 1820. Washington, 1821; pp. 146, 147.

fixed by treaty at the Iberville and the Mississippi rivers, the French minister instructed the Spanish government as follows:<sup>1</sup>—

“ The western limit of Louisiana not having been fixed in a manner equally precise by the treaties which preceded that of March 21, 1801, nor by that treaty itself, the uncertainty which prevailed in regard to the direction of its frontiers has necessarily continued since the cession made to the United States. France could not even take upon herself to indicate to the United States what ought to be that precise limit, for fear of wounding on this point the pretensions of one or the other Power directly interested in this question. It would have become the object of negotiation between his Imperial and his Catholic Majesties. To-day it can be treated only between Spain and the United States. Nevertheless, as the Americans derive their rights from France, I have been enabled to express to his Imperial Majesty's minister plenipotentiary near the United States the chief bases on which the Emperor would have planted himself in the demand for a demarcation of boundaries. Starting from the Gulf of Mexico, we should have sought to distinguish between settlements that belong to the kingdom of Mexico, and settlements that had been formed by the French or by those who succeeded them in this colony. This distinction between settlements formed by the French or by the Spaniards would have been made equally in ascending northwards. All those which are of French foundation would have belonged to Louisiana; and since European settlements in the interior are rare and scat-

<sup>1</sup> Talleyrand to Gravina, 12 Fructidor, An xii. (Aug. 30, 1804); Archives des Aff. Étr., MSS.

tered, we might have imagined direct lines drawn from one to the other to connect them; and it is to the west of this imaginary line that the boundary between Louisiana and the Spanish possessions would have been traced at such distance and in such direction as France and Spain should have agreed. The great spaces which sometimes exist between the last French settlements and the last Spanish missions might have left still some doubts on the direction of the boundary to be traced between them, but with the views of friendship and conciliation which animate their Majesties, these difficulties would have been soon smoothed away."

Such were, according to Talleyrand, the conciliatory intentions which should have animated his Imperial Majesty. They were widely different from the positive instructions formally approved by the First Consul Nov. 26, 1802, which ordered Victor and Laussat to consider the Rio Bravo as the boundary of their command. The difference was the whole province of Texas.

On another point Talleyrand reassured the Spanish government.

"In any case," said he, "the Court of Madrid would appear to have no ground for the fear it shows that the United States may make use of their possession of Louisiana in order to form settlements on the northwest coast of America. Whatever boundary may be agreed upon between Spain and the United States, the line will necessarily be so far removed from the western coast of America as to relieve the Court of Madrid from any anxiety on that score."

Yet no one knew better than Talleyrand the instincts of the American people, and their ambition to use the entire continent for their experiments! He knew that the First Consul, by his instructions to Laussat, had given, so far as he could, the authority of both French and Spanish governments to the claim of the United States that Louisiana stretched westwardly to the Rio Bravo, and on the northwest indefinitely to a line yet to be fixed. He knew that Laussat, who hated the Spaniards more than he did the Americans, had betrayed the secret. If Talleyrand hoped to repress American ambition, he must have calculated on the effects of force or fear, or he must have been overwhelmed by the immensity of the scale on which the Americans were acting. The doctrine of contiguity, on which the United States could rest their most plausible claim to Oregon, was as valid then as it ever afterward became; and if Talleyrand did not appreciate it, Godoy proved himself the more sagacious statesman.

By Sept. 1, 1804, these precautionary measures were completed, and Talleyrand could wait for the coming of Monroe and Armstrong. About the middle of October Monroe appeared in Paris. His instructions, sent from Washington before the news of Pinckney's extravagances had reached America, obliged him to insist upon the right to West Florida as "*a sine quâ non*, and no price to be given for it;"<sup>1</sup> to insist, also, upon the right to Texas, but with a

<sup>1</sup> Jefferson to Madison, July 5, 1804; Works, iv. 550.

border-land to be kept unsettled for thirty years ; and to offer two million dollars for East Florida beyond the Perdido. The Cabinet then for the first time decided to commit itself to the doctrine that West Florida was a part of the Louisiana purchase,<sup>1</sup> alleging as its ostensible reason, not so much the abstract justice of the title, as the wish to avoid acknowledging Spanish land-grants made in Florida since the Louisiana cession.

“ It is indispensable,” wrote Madison, April 15, 1804, “ that the United States be not precluded from such a construction [of the treaty], — first, because they consider the right as well founded ; secondly and principally, because it is known that a great proportion of the most valuable lands between the Mississippi and the Perdido have been granted by Spanish officers since the cession was made by Spain. These illicit speculations cannot otherwise be frustrated than by considering the territory as included in the cession made by Spain.”

The hope that Spain might submit to these concessions rested on the belief that she could not afford to quarrel with the United States. Foreseeing that she must soon be drawn into the war with England, the President from the first looked forward to that event, believing that the same reasons which as he supposed had forced Bonaparte to cede Louisiana, must reconcile Spain to the cession of Florida.

<sup>1</sup> Madison to Monroe, April 15, 1804 ; State Papers, ii. 627. Madison to Monroe and Pinckney, July 8, 1804 ; State Papers, ii. 630.

“Should she be engaged in the war,” wrote Madison to Monroe, “or manifestly threatened with that situation, she cannot fail to be the more anxious for a solid accommodation on all points with the United States, and the more willing to yield, for that purpose, to terms which, however proper in themselves, might otherwise be rejected by her pride and misapplied jealousy.”

The first part of this calculation was realized even before Monroe quitted London. Oct. 1, 1804, a British squadron seized the Spanish treasure-ships on their voyage from America; and no one doubted that Spain must declare war. She did so a few weeks later, December 12, before Monroe reached Madrid. The effect of this new disaster on what Madison called her “misapplied jealousy” remained to be seen.

The only published record of Monroe's stay in Paris is contained in a note dated Nov. 8, 1804, which he persuaded Livingston to convey to Talleyrand. Although Livingston's temper was peculiar, and his diplomacy under ordinary circumstances restless, he was well acquainted with the men who governed France; and he had little faith in another man's ability to do what he had himself attempted in vain. That Livingston should be jealous of Monroe's presence in Paris was natural; for the American minister at London was not accredited to the Emperor, and his interference could do nothing but harm to the actual minister at Paris. When asked to act as medium for Monroe's proposed communications with



Talleyrand, Livingston made objections. Not until Armstrong arrived, about November 1, did the ministers agree upon the terms of the note, and send it to its address. Monroe had then been one month absent from London.

Nothing could be more courteous than the tone of Monroe's letter, which ignored Pinckney's conduct, and breathed a spirit of benevolence.<sup>1</sup> The object of writing was to ask the Emperor's good offices in support of the negotiation to be opened at Madrid; and in order to reach this end, Monroe touched on the story of his present mission, recounting the causes of the previous quarrel with Spain, and alluding to West Florida, the spoliation claims, the claims for damages rising from Morales's occlusion of the Mississippi, and to the Mobile Act, which, as Monroe admitted, was intended to authorize the taking immediate possession of Florida. The only offensive idea suggested in the note was that the Spanish occupation of Florida implied an aggression against the United States, "which tends to provoke hostility and lead to war."

The note combining the diplomacy of three ministers was sent; and the three diplomatists waited in fear of what would follow, dreading nothing so much as Talleyrand's answer. They had reason to know that it would be unfavorable, and that at least on the question of West Florida Talleyrand had already committed himself against the United States. They

<sup>1</sup> Monroe to Talleyrand, Nov. 8, 1804; State Papers, ii. 634.

were told, too, that on reading their note Napoleon showed great irritation. Besides this, they had other causes of alarm. Within three days after Monroe's arrival at Paris, Marbois, his best friend among Napoleon's ministers, told him that the question was one of money :<sup>1</sup> "Such was the situation of Spain at this time, that he was persuaded if we would make her suitable pecuniary accommodations we might succeed." M. Hauterive, another gentleman within the circle of government, soon afterward repeated the remark : "Spain must cede territory ; the United States must pay money." Care was taken to let Monroe understand that once this principle should be agreed upon, France would cause the negotiation to be transferred to Paris. Armstrong soon afterward wrote to Madison, alluding to the story in regard to the Emperor :<sup>2</sup> —

"This country has determined to convert the negotiation into a job, and to draw from it advantages merely pecuniary to herself, or, in other language, to her agents. It is this venality that explains her present reserve, the degree of excitement displayed by the Emperor on reading the note, and the marked incivility with which Mr. Monroe was treated by Talleyrand. Since his departure, repeated intimations have been given to me that if certain persons could be sufficiently gratified, the negotiation should be transferred hither, and brought to a close with which we should have no reason to find fault."

<sup>1</sup> Monroe to Madison, Dec. 16, 1804 ; MSS. State Department Archives.

<sup>2</sup> Armstrong to Madison, Dec. 24, 1804 ; MSS. State Department Archives.

Monroe, though honest as any man in public life, and more courageous in great emergencies than some of his friends or rivals, was commonly not quick at catching an idea, nor did he see it at last from a great elevation; but in this instance the idea was thrust so persistently into his face, that had he been blind he could not have missed it. Nothing could more clearly explain his situation than the language of the diary in which he recorded, for the President's benefit, the daily course of his conduct.

"No other alternative," he explained,<sup>1</sup> "presented itself to me than to abandon the object and return to London, or to submit to the terms which it was sufficiently well understood France was willing to accept, and seemed in some measure to dictate, which amounted to this: that we should create a new loan of about seventy millions of livres, and transfer the same to Spain, who would immediately pass them over to France, in consideration of which we should be put in possession of the disputed territory, under stipulations which should provide for the adjustment of the ultimate right there, and reimbursement of the money by instalment in seven years."

"To submit to the terms proposed was altogether out of the question," continued Monroe. Having led his Government to take the ground that West Florida had already been bought, he could not enter into a negotiation to buy it a second time. His instructions

<sup>1</sup> Diary at Aranjuez, April 22, 1805; MSS. State Department Archives.

made this point a *sine quâ non* of negotiation. Recognizing that under these circumstances further effort was useless, or in his own words that no other alternative presented itself but to abandon the object and return to London, Monroe intimated to Talleyrand that he meant not only to pay no money, but also to negotiate in spite of Napoleon; and started for Madrid.

“I did not hesitate,” he wrote home,<sup>1</sup> “in many informal communications, the substance of which I was persuaded were made known to those in power, to declare most solemnly that I would sanction no measure which contemplated a payment of money to Spain in any transaction we might have with her in the affair, — by which was meant, by creation of stock or otherwise which took the money from our people; that neither the state of things between the parties, the example of France in a similar case, or my instructions, permitted it. These conversations were with a person who possessed the confidence of certain persons in power, as well as my own, though they were not of a nature to compromit either party. That circumstance enabled me to speak with the utmost freedom, and perhaps to say things which it might have been difficult to press directly in the same manner to the parties themselves.”

In thus defying France, Monroe, if he resembled European diplomatists, must have aimed at giving his Government an opportunity to break with the Emperor and to proceed against Florida by means

<sup>1</sup> Monroe to Madison, Dec. 16, 1804; MSS. State Department Archives.

of force. That he should have still hoped for success in negotiating at Madrid was hardly possible. Armstrong thought his chance desperate.<sup>1</sup>

“Mr. Monroe has no doubt communicated to you,” he wrote to the Secretary of State, “the motives which induced him to leave England in prosecution of his mission to Spain, and while here to attempt to draw from this Government some new declaration in support of our construction of the late treaty. With this view a note was prepared and transmitted through Livingston, the receipt of which was acknowledged by Mr. Talleyrand with a promise that ‘an answer should be given to it as soon as the Emperor should have signified his will on the subject.’ Having waited nearly a month, and no answer being given, having some reason to believe that any declaration from this Court now would be less favorable than those already made, and fearful lest something might be lost at Madrid, while nothing could be gained here, he set out on the 8th instant for Spain. I have but little hope, however, that he will be able to do more than fulfil the forms of his mission.”

Armstrong preferred, as he expressed it, “an effort (which cannot fail) to do the business at home.” He had already discovered that the Emperor was personally irritated with the Americans, that he took no pains to conceal it, and that this irritation was a cause of his reserve.

“I have employed every means in my power to ascertain the cause of this cause, and have learned from a

<sup>1</sup> Armstrong to Madison, Dec. 24, 1804 ; MSS. State Department Archives.

person sufficiently near him to know the fact, that this temper originated in representations made by Leclerc and others from St. Domingo; that it has since been kept alive by the incident of the war in that country, the trade carried on between it and the United States, the freedom with which he is treated in our press, the matrimonial connection of Jerome, and, above all, the support which principles he wishes to extinguish in France receive from the progressing prosperity of the United States."

With Napoleon in this frame of mind; with Godoy and Cevallos in a humor far worse; and with Talleyrand in such a temper as not to allow of his treating Monroe with civility,—the American plenipotentiary departed to Madrid, hoping that something might occur to overcome his difficulties. During his journey, Charles IV. declared war against England. This long-foreseen event, which should have brought Spain to terms with the United States, in fact threw her only at the feet of Napoleon. Henceforward every offence to Spain was an offence to France, which the Emperor was the more bound to resent because by treaty he must regard a war upon Charles IV. as a war upon himself.

Talleyrand was not vindictive, but he had been twice mortified by the failure of his policy toward America. If his callous cheek could burn, it was still red with the blow which the last President of the United States had struck it; and no waters of oblivion could drown in his memory the cry of distress with which he had then begged for mercy. He



had been again overthrown by the present President, and obliged to sell Louisiana, turn his back on the traditions of France, and shut up his far-reaching mind within the limit of his master's artillery politics. Day by day he saw more clearly that soldiership, and not statecraft, was to guide the destinies of France, and that the new *régime* was but revolution without ideas. He had probably begun already to feel that the presence of his coldly silent face was becoming irksome to a will which revolted at the memory of a remonstrance. Talleyrand was corrupt,—perhaps he thought himself more corrupt than he was; but his political instincts were sounder than his private morality. He was incarnate conservatism; but he was wider-minded and more elevated in purpose than Napoleon. He had no faith in Napoleon's methods, and was particularly hostile to his projects against Spain; but in respect to Monroe and his mission, Talleyrand's ideas coincided with those of the Emperor; and when two such men marked out a victim, his chance of escape was small.

Talleyrand was not to blame that Monroe's note remained unanswered before Monroe left Paris. About ten days after receiving it Talleyrand made to the Emperor a report on the subject, so cool and clear as to read like a mathematical demonstration.<sup>1</sup>

“The United States,” he began, “who wish to negotiate at Madrid under the auspices of France for the ac-

<sup>1</sup> Rapport à l'Empereur, 28 Brumaire, An xii. (Nov. 19, 1804); Archives des Aff. Étr., MSS.

quisition of Florida, have acquired little title to the good offices of the Emperor by the sharpness of tone and the want of civility (*égards*) with which they have conducted themselves toward Spain."

After enumerating the threats and aggressions of the United States government against Spain during the last three years, the report disposed of the American claims, one by one, in few words. First, the spoliations, which had been formally abandoned by treaty; second, the claim for losses rising from the interruption of *entrepôt* at New Orleans, which "should be terminated by the treaty of cession, — the acquisition of an immense country might throw out of view some anterior losses;" finally, the claim to West Florida, — a species of attack on the Emperor's dignity and good faith which merited some expression of his displeasure. To support this view, Talleyrand related the history of the French negotiation for West Florida and its failure, commenting on the manner in which the Americans had fabricated their claim, and coming at last to a conclusion studiously moderate, and evidently in harmony with the views of Hauterive as expressed to Monroe. Talleyrand rarely wrote such papers with his own hand; probably they were drawn up under his directions by Hauterive, or some other subordinate of the Office, in the form of suggestions rather than advice.

"According to such evidence, no one can suppose the United States to be convinced of the justice of their rights; and we are warranted in thinking that the Federal

government, as a result of confidence in its own strength, of its ambition, and its ascendancy in America, raises pretensions to a part of Florida in order to show itself afterward more exacting toward Spain. The Emperor will feel that justice requires him not to recognize such pretensions. If he should assist by his good offices an arrangement between the United States and Spain, he would wish good faith and impartiality for its base.

Only in case the United States should desist from their unjust pretensions to West Florida, and return to the forms of civility and decorum, — from which in their relations with each other governments should never depart, — could the Emperor allow himself to second at the Court of Madrid the project of acquisition of the two Floridas. Then perhaps the Emperor might think that this country is less suited to Spain now that it is separated from her other colonies, and that it is better suited to the United States because a part of their Western rivers cross the Floridas before flowing into the Gulf of Mexico; and finally, that Spain may see in her actual situation, and in the expenses entailed on her by the war, some motives for listening to the offers of the Federal government."

Talleyrand had great need to insist on "the forms of civility and decorum from which governments should never depart"! Perhaps Talleyrand already foresaw the scene, said to have occurred some two years later, when Napoleon violently denounced him to his face as "a silk stocking stuffed with filth," and the minister coldly retaliated by the famous phrase, "Pity that so great a man should be so ill brought up!" The task of teaching manners to

Jefferson was not Napoleon's view of his own functions in the world. He probably gave more attention to the concluding lines of the report, which suggested that he should decide whether a Spanish colony, made worthless by an arbitrary act of his own, could be usefully employed in sustaining his wars.

This report, dated Nov. 19, 1804, lay some weeks in the Emperor's hands. Monroe left Paris for Madrid December 8, and still no answer had been sent to his note. He wrote from Bordeaux, December 16, a long and interesting letter to Madison, and resumed his journey. He could hardly have crossed the Bidassoa when Armstrong received from Talleyrand, December 21, the long-expected answer,<sup>1</sup> which by declaring the claim to West Florida emphatically unfounded struck the ground from under Monroe's feet, and left him to repent at leisure his defiance of Talleyrand's advice. Under the forms of perfect courtesy, this letter contained both sarcasm and menace. Talleyrand expressed curiosity to learn the result of Monroe's negotiation:—

“This result his Imperial Majesty will learn with real interest. He saw with pain the United States commence their difficulties with Spain in an unusual manner, and conduct themselves toward the Floridas by acts of violence which, not being founded in right, could have no other effect but to injure the lawful owner. Such an aggression gave the more surprise to his Majesty because

<sup>1</sup> Talleyrand to Armstrong, Dec. 21, 1804; State Papers, ii. 635.

the United States seemed in this measure to avail themselves of their treaty with France as an authority for their proceedings, and because he could scarcely reconcile with the just opinion which he entertains of the wisdom and fidelity of the Federal government a course of proceedings which nothing can authorize toward a Power which has long occupied, and still occupies, one of the first ranks in Europe."

Madison and Monroe, as well as Jefferson, in the course of their diplomacy had many mortifications to suffer; but they rarely received a reprimand more keen than this. Yet its sharpness was so delicately covered by the habitual forms of Talleyrand's diplomacy that Americans, who were accustomed to hear and to use strong language, hardly felt the wound it was intended to inflict. After hearing Yrujo denounce an act of their government as an "atrocious libel," they were not shocked to hear Talleyrand denounce the same act as one of violence which nothing could authorize. The force of Talleyrand's language was more apparent to Godoy than to Madison, for it bore out every expression of Yrujo and Cevallos. The Prince of Peace received a copy of Talleyrand's note at the moment when Monroe, after almost a month of weary winter travel, joined Pinckney, who had for six months been employed only in writing letter after letter begging for succor and support. Don Pedro Cevallos, with this public pledge in his hand, and with secret French pledges covering every point of the negotiation in his desk,

could afford to meet with good humor the first visit of the new American plenipotentiary.

Pinckney's humiliation was extreme. After breaking off relations with Cevallos and pledging himself to demand his passports and to leave Spain, he had been reduced to admit that his Government disavowed him; and not only was he obliged to remain at Madrid, but also to sue for permission to resume relations with Cevallos. The Spanish government good-naturedly and somewhat contemptuously permitted him to do so; and he was only distressed by the fear that Monroe might refuse to let him take part in the new negotiation, for he was with reason confident that Monroe would be obliged to follow in his own footsteps,—that the United States could save its dignity and influence only by war.

At the beginning of the new year, Jan. 2, 1805, Monroe entered Madrid to snatch Florida from the grasp of Spain and France. The negotiation fell chiefly within Jefferson's second term, upon which it had serious results. But while Monroe, busy at Madrid with a quarrel which could lead only to disappointment or war, thus left the legation at London for eight months to take care of itself, events were occurring which warned President Jefferson that the supreme test of his principles was near at hand, and that a storm was threatening from the shores of Great Britain compared with which all other dangers were trivial.



## CHAPTER XIV.

FOR eighteen years after 1783 William Pitt guided England through peace and war with authority almost as absolute as that of Don Carlos IV. or Napoleon himself. From him and from his country President Jefferson had much to fear and nothing to gain beyond a continuance of the good relations which President Washington, with extreme difficulty, had succeeded in establishing between the two peoples. So far as England was concerned, this understanding had been the work of Pitt and Lord Grenville, who rather imposed it on their party than accepted it as the result of any public will. The extreme perils in which England then stood inspired caution ; and of this caution the treaty of 1794 was one happy result. So long as the British government remained in a cautious spirit, America was safe ; but should Pitt or his successors throw off the self-imposed restraints on England's power, America could at the utmost, even by a successful war, gain nothing materially better than a return to the arrangements of 1794.

The War of Independence, which ended in the definitive treaty of 1783, naturally left the English people in a state of irritation and disgust toward

America; and the long interregnum of the Confederation, from 1783 to 1789, allowed this disgust to ripen into contempt. When at length the Constitution of 1789 restored order in the American chaos, England felt little faith in the success of the experiment. She waited for time to throw light on her interests.

This delay was natural; for American independence had shattered into fragments the commercial system of Great Britain, and powerful interests were combined to resist further concession. Before 1776 the colonies of England stretched from the St. Lawrence to the Mississippi, and across the Gulf of Mexico to the coast of South America, mutually supporting and strengthening each other. Jamaica and the other British islands of the West Indies drew their most necessary supplies from the Delaware and the Hudson. Boston and New York were in some respects more important to them than London itself. The timber, live-stock, and provisions which came from the neighboring continent were essential to the existence of the West Indian planters and negroes. When war cut off these supplies, famine and pestilence followed. After the peace of 1783 even the most conservative English statesmen were obliged to admit that the strictness of their old colonial system could not be maintained, and that the United States, though independent, must be admitted to some of the privileges of a British colony. The government unwillingly conceded what could not be refused, and the West Indian colonists compelled Parliament to relax the colonial system so far as to

allow a restricted intercourse between their islands and the ports of the United States. The relaxation was not a favor to the United States,—it was a condition of existence to the West Indies; not a boon, but a right which the colonists claimed and an Act of Parliament defined.<sup>1</sup>

The right was dearly paid for. The islands might buy American timber and grain, but they were allowed to make return only in molasses and rum. Payment in sugar would have been cheaper for the colonists, and the planters wished for nothing more earnestly than to be allowed this privilege; but as often as they raised the prayer, English shipowners cried that the navigation laws were in peril, and a chorus of familiar phrases filled the air, all carrying a deep meaning to the English people. “Nursery of seamen” was one favorite expression; “Neutral frauds” another; and all agreed in assuming that at whatever cost, and by means however extravagant, the navy must be fed and strengthened. Under the cover of supporting the navy any absurdity could be defended; and in the case of the West Indian trade, the British shipowner enjoyed the right to absurdities sanctioned by a century and a half of law and custom. The freight on British sugars belonged of right to British shippers, who could not be expected to surrender of their own accord, in obedience to any laws of political economy, a property which was the source of their incomes. The colonists asked permission to refine their own

<sup>1</sup> 28 George III. c. 6.

sugar; but their request not only roused strong opposition from the shipowners who wanted the bulkier freight, but started the home sugar-refiners to their feet, who proved by Acts of Parliament that sugar-refining was a British and not a colonial right. The colonist then begged a reduction of the heavy duty on sugar; but English country gentlemen cried against a measure which might lead to an increase of the income-tax or the imposition of some new burden on agriculture. In this dilemma the colonists frankly said that only their weakness, not their will, prevented them from declaring themselves independent, like their neighbors at Charleston and Philadelphia.

Even when the qualified right of trade was conceded, the colonists were not satisfied; and the concession itself laid the foundation of more serious changes. From the moment that American produce was admitted to be a necessity for the colonists, it was clear that the Americans must be allowed a voice in the British system. Discussion whether the Americans had or had not a right to the colonial trade was already a long step toward revolution. One British minister after another resented the idea that the Americans had any rights in the matter; yet when they came to practical arrangements the British statesmen were obliged to concede that they were mistaken. From the necessity of the case, the Americans had rights which never could be successfully denied. Parliament struggled to prevent the rebel Americans from sharing in the advantages of the colonial system from which

they had rebelled ; but unreasonable as it was that the United States should be rewarded for rebellion by retaining the privileges of subjects, this was the inevitable result. Geography and Nature were stronger than Parliament and the British navy.

At first Pitt hoped that the concession to the colonists might entail no concession to the United States ; while admitting a certain hiatus in the colonial system, he tried to maintain the navigation laws in their integrity. The admission of American produce into the West Indies was no doubt an infraction of the protectionist principle on which all the civilized world, except America, founded its economical ideas ; but in itself it was not serious. To allow the flour, potatoes, tobacco, timber, and horses of the American continent to enter the harbors of Barbadoes and Jamaica ; to allow in turn the molasses and rum of the islands to be sent directly to New York and Boston, — harmed no one, and was advantageous to all parties, so long as British ships were employed to carry on the trade. At first this was the case. The Act of Parliament allowed only British subjects, in British-built ships, to enter colonial ports with American produce. Whether the United States government would long tolerate such legislation without countervailing measures was a question which remained open for a time, while the system itself had a chance to prove its own weakness. The British shipping did not answer colonial objects. Again and again the colonists found themselves on the verge of starvation ; and always in this emer-

gency the colonial governors threw open their ports by proclamation to American shipping, while with equal regularity Parliament protected the governors by Acts of Indemnity. To this extent the navigation system suffered together with the colonial system, but in theory it was intact. Ministry, Parliament, and people clung to the navigation laws as their ark of safety; and even the colonists conceded that although they had a right to eat American wheat and potatoes, they had no right to eat those which came to them in the hold of a Marblehead schooner.

Such a principle, however convenient to Great Britain, was not suited to the interests of New England shippers. In peace their chances were comparatively few, and the chief diplomatic difficulties between European governments and the United States had their source in the American attempt to obtain legal recognition of trade which America wished to maintain with the colonies; but in war the situation changed, and more serious disputes occurred. Then the French and Spanish West Indian ports were necessarily thrown open to neutral commerce, because their own ships were driven from the ocean by the superiority of the British navy. Besides the standing controversy about the admission of American produce to British islands, the British government found itself harassed by doubts to what extent it might safely admit the Americans into the French or Spanish West Indies, and allow them to carry French property, as though their flag were competent to protect whatever was under it.



Granting that an article like French sugar might be carried in a neutral vessel, there were still other articles, called contraband, which ought not to be made objects of neutral commerce; and England was obliged to define the nature of contraband. She was also forced to make free use of the right of blockade. These delicate questions were embittered by another and more serious quarrel. The European belligerents claimed the right to the military service of their subjects, and there was no doubt that their right was perfect. In pursuance of the claim they insisted upon taking their seamen from American merchant-vessels wherever met on the high seas. So far as France was concerned, the annoyance was slight; but the identity of race made the practice extremely troublesome as concerned England.

At the outbreak of the French wars, Nov. 6, 1793, the British government issued instructions directing all British armed vessels to seize every neutral ship they should meet, loaded with the produce of a French colony or carrying supplies for its use.<sup>1</sup> These orders were kept secret for several weeks, until the whole American commerce with the Antilles, and all American ships found on the ocean, laden in whole or in part with articles of French colonial produce or for French colonial use, were surprised and swept into British harbors, where they were condemned by British admiralty courts, on the ground known as the "Rule of the War of 1756," — that because trade between

<sup>1</sup> Additional Instructions of Nov. 6, 1793; State Papers, i. 430.

the French colonies and the United States was illegal in peace, it was illegal in war. From the point of view in which European Powers regarded their colonies, much could be said in support of this rule. A colony was almost as much the property of its home government as a dockyard or a military station. France and Spain could hardly complain if England chose to treat the commerce of such government-stations as contraband; but a rule which might perhaps be applied by European governments to each other worked with great injustice when applied to the United States, who had no colonies, and made no attempt to build up a navy or support an army by such means. Taken in its broadest sense, the European colonial system might be defined by the description which the best of British commentators gave to that of England,<sup>1</sup>—a “policy pursued for rendering the foreign trade of the whole world subservient to the increase of her shipping and navigation.” American Independence was a protest against this practice; and the first great task of the United States was to overthrow and destroy the principle, in order to substitute freedom of trade. America naturally objected to becoming a martyr to the rules of a system which she was trying to revolutionize.

When these British instructions of Nov. 26, 1793, became known in the United States, the Government of President Washington imposed an embargo, threatened retaliation, and sent Chief-Justice Jay to London

<sup>1</sup> Reeves's Law of Shipping and Navigation, part ii. chap. iii.

as a last chance of maintaining peace. On arriving there, Jay found that Pitt had already voluntarily retreated from his ground, and that new Orders, dated Jan. 8, 1794, had been issued, exempting from seizure American vessels engaged in the direct trade from the United States to the French West Indies. In the end, the British government paid the value of the confiscated vessels. The trade from the United States to Europe was not interfered with; and thus American ships were allowed to carry French colonial produce through an American port to France, while Russian or Danish ships were forbidden by England to carry such produce to Europe at all, although their flags and harbors were as neutral as those of the United States. America became suddenly a much favored nation, and the enemies of England attributed this unexpected kindness to fear. In truth it was due to a natural mistake. The British Treasury calculated that the expense and trouble of carrying sugar and coffee from Martinique or St. Domingo to Boston, of landing it, paying duties, re-embarking it, receiving the drawback, and then carrying it to Bordeaux or Brest, would be such as to give ample advantages to English vessels which could transship more conveniently at London. The mistake soon became apparent. The Americans quickly proved that they could under these restrictions carry West Indian produce to Europe not only more cheaply than British ships could do it, but almost as quickly; while it was a positive advantage on the return voyage to make double freight by stopping at

an American port. The consequence of this discovery was seen in the sudden increase of American shipping, and was largely due to the aid of British seamen, who found in the new service better pay, food, and treatment than in their own, and comparative safety from the press-gang and the lash. At the close of the century the British flag seemed in danger of complete exclusion from the harbors of the United States. In 1790 more than 550 British ships, with a capacity of more than 115,000 tons, had entered inward and outward, representing about half that number of actual vessels; in 1799 the custom-house returns showed not 100 entries, and in 1800 about 140, representing a capacity of 40,000 tons. In the three years 1790-1792, the returns showed an average of some 280 outward and inward entries of American ships with a capacity of 54,000 tons; in 1800 the entries were 1,057, with a capacity of 236,000 tons. The Americans were not only beginning to engross the direct trade between their own ports and Europe, but were also rapidly obtaining the indirect carrying-trade between the West Indies and the European continent, and even between one European country and another. The British government began to feel seriously uneasy. At a frightful cost the people of England were striving to crush the navies and commerce of France and Spain, only to build up the power of a dangerous rival beyond the ocean.

Doubtless the British government would have taken measures to correct its mistake, if the political situ-

ation had not hampered its energies. Chief-Justice Jay, in 1794, negotiated a treaty with Lord Grenville which was in some respects very hard upon the United States, but was inestimably valuable to them, because it tied Pitt's hands and gave time for the new American Constitution to acquire strength. Ten years of steady progress were well worth any temporary concessions, even though these concessions exasperated France, and roused irritation between her and the United States which in 1798 became actual hostility. The prospect that the United States would become the ally of England was so fair that Pitt dared not disturb it. His government was in a manner forced to give American interests free play, and to let American shipping gain a sudden and unnatural enlargement. His liberality was well paid. For a moment France drove the United States to reprisals; and as the immediate consequence, St. Domingo became practically independent, owing to the support given by the United States to Toussaint. Even the reconciliation of France with America effected by Bonaparte and Talleyrand in 1800 did not at first redress the balance. Not till the Peace of Amiens, in 1802, did France recover her colonies; and not till a year later did Bonaparte succeed, by the sacrifice of Louisiana, in bringing the United States back to their old attitude of jealousy toward England.

Nevertheless, indications had not been wanting that England was aware of the advantage she had given to American commerce, and still better of the advantages

which had been given it by Nature. All the Acts of Parliament on the statute-book could not prevent the West Indies from being largely dependent on the United States; yet the United States need not be allowed the right to carry West Indian produce to France, — a right which depended only on so-called international law, and was worthless unless supported by the stronger force. A new Order was issued, Jan. 25, 1798, which admitted European neutrals to enemies' colonies, and allowed them to bring French colonial produce to England or to their own ports. This Order was looked upon as a side-blow at American shipping, which was not allowed the same privilege of sailing direct from the Antilles to Europe. The new Order was justified on the ground that the old rule discriminated in favor of American merchants, whose competition might be injurious to the commercial interests of England.<sup>1</sup>

Further than this the British government did not then go; on the contrary, it officially confirmed the existing arrangement. The British courts of admiralty conformed closely to the rules of their political chiefs. Sir William Scott, better known as Lord Stowell, whose great reputation as a judge was due to the remarkable series of judgments in which he created a new system of admiralty law, announced with his usual clearness the rules by which he meant to be guided. In the case of the "Emmanuel," in November, 1799, he explained the principle on which the law permitted

<sup>1</sup> Appendix to 4 Robinson, 6.



neutrals to carry French produce from their own country to France. "By importation," he said, "the produce became part of the national stock of the neutral country; the inconveniences of aggravated delay and expense were a safeguard against this right becoming a special convenience to France or a serious abridgement of belligerent rights." Soon afterward, in the case of the "Polly," April 29, 1800, he took occasion to define what he meant by importation into a neutral country. He said it was not his business to decide what was universally the test of a *bona fide* importation; but he was strongly disposed to hold that it would be sufficient if the goods were proved to have been landed and the duties paid; and he did accordingly rule that such proof was sufficient to answer the fair demands of his court.

Rufus King, then American minister in London, succeeded in obtaining from Pitt an express acceptance of this rule as binding on the government. On the strength of a report<sup>1</sup> from the King's Advocate, dated March 16, 1801, the British Secretary of State notified the American minister that what Great Britain considered as the general principle of colonial trade had been relaxed in a certain degree in consideration of the present state of commerce. Neutrals might import French colonial produce, and convey it by re-exportation to France. Landing the goods and paying the duties in America legalized the trade, even though

<sup>1</sup> Advocate-General's Report, March 16, 1801; State Papers, ii. 491.

these goods were at once re-shipped and forwarded to France on account of the same owners.

With this double guaranty Jefferson began his administration, and the American merchants continued their profitable business. Not only did they build and buy large numbers of vessels, and borrow all the capital they could obtain, but doubtless some French and Spanish merchants, besides a much greater number of English, made use of the convenient American flag. The Yankees exulted loudly over the decline of British shipping in their harbors; the British masters groaned to see themselves sacrificed by their own government; and the British admirals complained bitterly that their prize-money was cut off, and that they were wearing out their lives in the hardest service, in order to foster a commerce of smugglers and perjurers, whose only protection was the flag of a country that had not a single line-of-battle ship to fly it.

Yet President Jefferson had reason to weigh long and soberly the pointed remark with which the King's Advocate began his report, — that the general principle with respect to the colonial trade had been to a certain extent relaxed in consideration of the present state of commerce. No doubt the British pretension, as a matter of international law, was outrageous. The so-called rule of 1756 was neither more nor less than a rule of force; but when was international law itself anything more than a law of force? The moment a nation found itself unable to show some kind of

physical defence for its protection, the wisdom of Grotius and Bynkershoek could not prevent it from being plundered; and how could President Jefferson complain merely because American ships were forbidden by England to carry French sugars to France, when he looked on without a protest while England and France committed much greater outrages on every other country within their reach?

President Jefferson believed that the United States had ample means to resist any British pretension. As his letters to Paine and Logan showed, he felt that European Powers could be controlled through the interests of commerce.<sup>1</sup> He was the more firmly convinced by the extraordinary concessions which Pitt had made, and by the steady encouragement he gave to the American merchant. Jefferson felt sure that England could not afford to sacrifice a trade of some forty million dollars, and that her colonies could not exist without access to the American market. What need to spend millions on a navy, when Congress, as Jefferson believed, already grasped England by the throat, and could suffocate her by a mere turn of the wrist!

This reasoning had much in its favor. To Pitt the value of the American trade at a time of war with France and Spain was immense; and when taken in connection with the dependence of the West Indian colonies on America, it made a combination of British interests centring in the United States which

<sup>1</sup> See vol. i. p. 214.

much exceeded the entire value of all England's other branches of foreign commerce. Its prospective value was still greater if things should remain as they were, and if England should continue to undersell all rivals in articles of general manufacture. England could well afford to lose great sums of money in the form of neutral freights rather than drive Congress to a protective system which should create manufactures of cotton, woollen, and iron. These were motives which had their share in the civility with which England treated America; and year by year their influence should naturally have increased.

Of all British markets the American was the most valuable; but next to the American market was that of the West Indies. In some respects the West Indian was of the two the better worth preserving. From head to foot the planters and their half-million negroes were always clad in cottons or linens made by the clothiers of Yorkshire, Wiltshire, or Belfast. Every cask and hoop, every implement and utensil, was supplied from the British Islands. The sailing of a West Indian convoy was "an epoch in the diary of every shop and warehouse throughout the Kingdom."<sup>1</sup> The West Indian colonies employed, including the fisheries, above a thousand sail of shipping and twenty-five thousand seamen. While America might, and one day certainly would, manufacture for herself, the West Indies could not even dream of it; there the only profitable or practicable industry was cultivation of

<sup>1</sup> Thoughts on Commerce and Colonies, by Charles Bosanquet.

the soil, and the chief article of cultivation was the sugar-cane. Rival industries to those of Great Britain were impossible; the only danger that threatened British control was the loss of naval supremacy or the revolt of the negroes.

A great majority of British electors would certainly have felt no hesitation in deciding, as between the markets of the United States and of the West Indies, that if a choice must be made, good policy required the government to save at all hazards the West Indies. Both as a permanent market for manufactures and as a steady support for shipping, the West Indian commerce held the first place in British interests. This fact needed to be taken into account by the United States government before relying with certainty on the extent to which Great Britain could be controlled by the interests involved in the American trade. At the most critical moment all Jefferson's calculations might be upset by the growth of a conviction in England that the colonial system was in serious danger; and to make this chance stronger, another anxiety was so closely connected with it as to cause incessant alarm in the British mind.

The carrying-trade between the French West Indies and Europe which had thus fallen into American hands, added to the natural increase of national exports and imports, required a large amount of additional shipping; and what was more directly hostile to English interests, it drew great numbers of British sailors into the American merchant-service. The

desertion of British seamen and the systematic encouragement offered to deserters in every seaport of the Union were serious annoyances, which the American government was unable to excuse or correct. Between 1793 and 1801 they reached the proportions of a grave danger to the British service. Every British government packet which entered the port of New York during the winter before Jefferson's accession to power lost almost every seaman in its crew; and neither people nor magistrates often lent help to recover them. At Norfolk the crew of a British ship deserted to an American sloop-of-war, whose commander, while admitting the fact, refused to restore the men, alleging his construction of official orders in his excuse.<sup>1</sup> In most American harbors such protection as the British shipmaster obtained sprang from the personal good-will of magistrates, who without strict legal authority consented to apply, for the benefit of the foreign master, the merchant-shipping law of the United States; but in one serious case even this voluntary assistance was stopped by the authority of a State government.

This interference was due to the once famous dispute over Jonathan Robbins, which convulsed party politics in America during the heated election of 1800. Thomas Nash, a boatswain on the British frigate "Hermione," having been ringleader in conspiracy and murder on the high seas, was afterward identified in the United States under the name and with the papers

<sup>1</sup> Thornton to Grenville, March 7, 1801; MSS. British Archives.



of Jonathan Robbins of Danbury, in Connecticut. On a requisition from the British minister, dated June 3, 1799, he was delivered under the extradition clause of Jay's treaty, and was hung. The Republican party, then in opposition, declared that Robbins, or Nash, was in their belief an American citizen whose surrender was an act of base subservience to Great Britain. An effigy of Robbins hanging to a gibbet was a favorite electioneering device at public meetings. The State of Virginia, having a similar grievance of its own, went so far as to enact a law<sup>1</sup> which forbade, under the severest penalties, any magistrate who acted under authority of the State to be instrumental in transporting any person out of its jurisdiction. As citizens of the Union, sworn to support the Constitution, such magistrates were equally bound with the Federal judges to grant warrants of commitment, under the Twenty-seventh Article of Jay's treaty, against persons accused of specified crimes. The Virginia Act directly contravened the treaty; while indirectly it prevented magistrates from granting warrants against deserters and holding them in custody, so that every English vessel which entered a Virginia port was at once abandoned by her crew, who hastened to enter the public or private ships of the United States.<sup>2</sup>

The captain of any British frigate which might

<sup>1</sup> Act of Jan. 21, 1801, Statutes at Large of Virginia, New Series, ii. 302.

<sup>2</sup> Thornton to Grenville, June 1, 1802; MSS. British Archives.

happen to run into the harbor of New York, if he went ashore, was likely to meet on his return to the wharf some of his boat's crew strolling about the town, every man supplied with papers of American citizenship. This was the more annoying, because American agents in British ports habitually claimed and received the benefit of the British law; while so far as American papers were concerned, no pretence was made of concealing the fraud, but they were issued in any required quantity, and were transferred for a few dollars from hand to hand.

Not only had the encouragement to desertion a share in the decline of British shipping in American harbors, but it also warranted, and seemed almost to render necessary, the only countervailing measure the British government could employ. Whatever happened to the merchant-service, the British navy could not be allowed to suffer. England knew no conscription for her armies, because for centuries she had felt no need of general military service; but at any moment she might compel her subjects to bear arms, if circumstances required it. Her necessities were greater on the ocean. There, from time immemorial, a barbarous sort of conscription, known as impressment, had been the ordinary means of supplying the royal navy in emergencies; and every seafaring man was liable to be dragged at any moment from his beer-cellar or coasting-vessel to man the guns of a frigate on its way to a three-years' cruise in the West Indies or the Mediterranean. Mere engage-

ment in a foreign merchant-service did not release the British sailor from his duty. When the captain of a British frigate overhauled an American merchant-vessel for enemy's property or contraband of war, he sent an officer on board who mustered the crew, and took out any seamen whom he believed to be British. The measure, as the British navy regarded it, was one of self-protection. If the American government could not or would not discourage desertion, the naval commander would recover his men in the only way he could. Thus a circle of grievances was established on each side. Pitt's concessions to the United States irritated the British navy and merchant-marine, while they gave great profits to American shipping; the growth of American shipping stimulated desertions from the British service to the extent of injuring its efficiency; and these desertions in their turn led to a rigorous exercise of the right of impressment. To find some point at which this vicious circle could be broken was a matter of serious consequence to both countries, but most so to the one which avowed that it did not mean to protect its interests by force.

Great Britain could have broken the circle by increasing the pay and improving the condition of her seamen; but she was excessively conservative, and the burdens already imposed on her commerce were so great that she could afford to risk nothing. In the face of a combined navy like that of Spain and France, her control of the seas at any given point, such as the West Indies, was still doubtful; and in the face

of American competition, her huge convoys suffered under great disadvantage. Conscious of her own power, she thought that the United States should be first to give way. Had the American government been willing to perform its neutral obligations strictly, the circle might have been broken without much trouble; but the United States wished to retain their advantage, and preferred to risk whatever England might do rather than discourage desertion, or enact and enforce a strict naturalization law, or punish fraud. The national government was too weak to compel the States to respect neutral obligations, even if it had been disposed to make the attempt.

The practice of impressment brought the two governments to a deadlock on an issue of law. No one denied that every government had the right to command the services of its native subjects, and as yet no one ventured to maintain that a merchant-ship on the high seas could lawfully resist the exercise of this right; but the law had done nothing to define the rights of naturalized subjects or citizens. The British government might, no doubt, impress its own subjects; but almost every British sailor in the American service carried papers of American citizenship, and although some of these were fraudulent, many were genuine. The law of England, as declared from time out of mind by every generation of her judges, held that the allegiance of a subject was indefeasible, and therefore that naturalization was worthless. The law of the United States, as declared by Chief-Justice

Ellsworth in 1799, was in effect the same;<sup>1</sup> he held that no citizen could dissolve the compact of protection and defence between himself and society without the consent or default of the community. On both sides the law was emphatic to the point that naturalization could not bind the government which did not consent to it; and the United States could hardly require England to respect naturalization papers which the Supreme Court of the United States declared itself unable to respect in a similar case. Nevertheless, while courts and judges declare what the law is or ought to be, they bind only themselves, and their decisions have no necessary effect on the co-ordinate branches of government. While the judges laid down one doctrine in Westminster Hall, Parliament laid down another in St. Stephen's chapel; and no one could say whether the law or the statute was final. The British statute-book contained Acts of Parliament as old as the reign of Queen Anne<sup>2</sup> to encourage the admission of foreign seamen into the British navy, offering them naturalization as an inducement. American legislation went not quite so far, but by making naturalization easy it produced worse results. A little perjury, in no wise unsafe, was alone required in order to transform British seamen into American citizens; and perjury was the commonest commodity in a seaport. The British government was forced to

<sup>1</sup> Trial of Isaac Williams, Hartford, 1799; Wharton's State Trials, 653. Shanks v. Dupont, 3 Peters, 242.

<sup>2</sup> 6 Anne, c. 20.

decide whether papers so easily obtained and transferred should be allowed to bar its claims on the services of its subjects, and whether it could afford to become a party to the destruction of its own marine, even though the United States should join with France and carry on endless war.

That there were some points which not even the loss of American trade would bring England to concede was well known to Jefferson; and on these points he did not mean to insist. Setting the matter of impressment aside, the relations between England and America had never been better than when the new President took office March 4, 1801. The British government seemed earnest in conciliation, and lost no opportunity of showing its good-will. Under the Sixth Article of Jay's treaty, a commission had been appointed to settle long-standing debts due to British subjects, but held in abeyance by State legislation in contravention of the treaty of 1783. After long delays the commission met at Philadelphia and set to work, but had made little progress when the two American commissioners, with the President's approval, in the teeth of the treaty which created the Board, refused to accept its decisions, and seceded. This violent measure was not taken by the Administration without uneasiness, for England might reasonably have resented it; but after some further delay the British government consented to negotiate again, and at last accepted a round sum of three million dollars in full discharge of the British claim. This



was a case in which England was the aggrieved party; she behaved equally well in other cases where the United States were aggrieved. Rufus King complained that her admiralty courts in the West Indies and at Halifax were a scandal; in deference to his remonstrances these courts were thoroughly reformed by Act of Parliament. The vice-admiralty court at Nassau condemned the American brigantine "Leopard," engaged in carrying Malaga wine from the United States to the Spanish West Indies. The American minister complained of the decision, and within three days the King's Advocate reported in his favor.<sup>1</sup> The report was itself founded on Sir William Scott's favorable decision in the case of the "Polly." Soon afterward the American minister complained that Captain Pellew, of the "Cleopatra," and Admiral Parker had not effectually restrained their subordinates on the American station; both officers were promptly recalled. Although the Ministry had not yet consented to make any arrangement on the practice of impressment, Rufus King felt much hope that they might consent even to this reform; meanwhile Lord Grenville checked the practice, and professed a strong wish to find some expedient that should take its place.

There was no reason to doubt the sincerity of the British Foreign Office in wishing friendship. Its policy was well expressed in a despatch written from Philadelphia by Robert Liston, the British minister,

<sup>1</sup> Rufus King to Madison, April 12, 1801; State Papers, ii. 490.

shortly before he left the United States to return home:<sup>1</sup> —

“The advantages to be ultimately reaped from a perseverance in the line of conduct which Great Britain has adopted for the last four years appear to my mind to be infallible and of infinite magnitude; the profitable consequences of a state of hostility, small and uncertain. I have been pleasing my imagination with looking forward to the distant spectacle of all the northern continent of America covered with friendly though not subject States, consuming our manufactures, speaking our language, proud of their parent State, attached to her prosperity. War must bring with it extensive damage to our navigation, the probable loss of Canada, and the *world* behind it, the propagation of enmity and prejudices which it may be impossible to eradicate. The system of the American government does not strike me, with the near view I have of it, as being in so perilous a situation as is imagined in Europe. I am willing to avoid political prophecies, but I confess I think it will get on well enough if the country remains in peace; and if they go to war, the fabric may acquire strength. God forbid that it should be to our detriment, and to the triumph of our enemies!”

<sup>1</sup> Liston to Grenville (private), May 7, 1800; MSS. British Archives.

## CHAPTER XV.

FEBRUARY 4, 1801, one month before the inauguration of President Jefferson, Pitt suddenly retired from office, and was succeeded by a weak ministry, in which Mr. Addington, afterward Lord Sidmouth, took the post vacated by Pitt. No event could have been happier for the prospects of President Jefferson, who might fairly count upon Addington's weakness to prevent his interference in American affairs.

Knowing himself to be universally regarded as the friend and admirer of France, Jefferson was the more anxious not to be classed by the British government among the enemies of England. Even before he was inaugurated, he took occasion to request Edward Thornton, the British *chargé*, —

“With great earnestness, to assure his Majesty's government that it should experience during his administration as cordial and sincere acts of friendship as had ever been received under that of his predecessors. “I am aware,” said the President elect, “that I have been represented as hostile to Great Britain; but this has been done only for electioneering purposes, and I hope henceforward such language will be used no longer. I can appeal to all my past conduct that in everything in which I

have been engaged relatively to England, I have always been guided by a liberal policy. I wish to be at the head of affairs no longer than while I am influenced by such sentiments of equal liberality toward all nations. There is nothing to which I have a greater repugnance than to establish distinctions in favor of one nation against another."

The day after his inauguration he returned to the subject : —

"There is nothing I have more, or I may say so much, at heart as to adjust happily all differences between us, and to cultivate the most cordial harmony and good understanding. The English government is too just, I am persuaded, to regard newspaper trash, and the assertions contained in them that I am a creature of France and an enemy of Great Britain. For *republican* France I may have felt some interest ; but that is long over ; and there is assuredly nothing in the present government of that country which could naturally incline me to show the smallest undue partiality to it at the expense of Great Britain, or indeed of any other country."<sup>1</sup>

Thornton felt no great confidence in the new President's protests, and thought it possible that Jefferson had "on this, as he seems to have done on many late public occasions, taxed his imagination to supply the deficiency of his feelings." All Englishmen were attached to the Federalist and New England interest ; they could not understand that Virginia should be a safer friend than Massachusetts. Yet in truth

<sup>1</sup> Thornton to Grenville, March 7, 1801 ; MSS. British Archives.

Jefferson never was more serious than when he made these professions. The Southern republicans had nothing to gain from a quarrel with England; they neither wished for Canada, nor aspired to create shipping or manufactures: their chief antagonist was not England, but Spain. The only Power which could seriously injure them was Great Britain; and the only injury they could inflict in return was by conquering Canada for the benefit of Northern influence, or by building up manufactures which they disliked, or by cutting off their own markets for tobacco and cotton. Nothing warranted a belief that men like Jefferson, Madison, and Gallatin would ever seek a quarrel with England.

The British Ministry soon laid aside any doubts they might have felt on the subject. Lord Grenville, who retired with Pitt, was succeeded as Foreign Secretary by Lord Hawkesbury, afterward better known as Lord Liverpool. The new Ministry negotiated for peace with Bonaparte. Oct. 1, 1801, the preliminaries were signed, and the world found itself again in a sort of repose, broken only by the bloody doings at St. Domingo and Guadeloupe. England returned, like France and Spain, to the rigor of the colonial system. The customs entries of New York, Boston, and Philadelphia rapidly diminished in number; American shipping declined; but Madison was relieved from the burden of belligerent disputes, which had been the chief anxiety of his predecessors in the State Department.

Yet peace did not put an end to all difficulties. Rufus King continued to negotiate in London in regard to the outstanding British debts, twice recognized by treaty, yet still unpaid by the United States; in regard to the boundary of Maine and that of the extreme northwest territory at the source of the Mississippi; and finally, in regard to impressments; while Edward Thornton at Washington complained that, in spite of peace and the decline of American shipping, encouragement was still offered to the desertion of British seamen in every port of the United States,—in fact that this means was systematically used to prevent British shipping from entering American ports in competition with the shipping of America. When Madison alleged that the national government had no share in such unfriendly conduct, Thornton thrust under his eyes the law of Virginia,—a law enacted by President Jefferson's political friends in his political interests,—which forbade, under penalty of death, any magistrate of Virginia to be instrumental in surrendering deserters or criminals, even in cases where they were bound by treaty to do so. Madison could not deny that this legislation was contrary to a treaty right which the United States government was bound to enforce. He admitted that American shipmasters and consuls in British ports habitually asked the benefit of the British law, and received it; but he could hold out only a remote hope that mutual legislation might solve the difficulty by applying the merchant-seamen laws of the two coun-



tries reciprocally. In conversation with Thornton he lamented, with every appearance of sincerity and candor, the deficiency of the existing laws, and did not dispute that Great Britain could hardly be blamed for refusing the surrender of seamen on her side; but when Thornton asked him to order the return of a man who under aggravated circumstances had deserted from the British ship-of-war "Andromache" in the port of Norfolk, and had been immediately engaged on the United States revenue cutter there, Madison replied in a note coldly reiterating the fact, with which both parties were already acquainted, that neither the law of nations nor the provisions of any treaty enjoined the mutual restitution of seamen. This recognized formula, under which governments commonly express a refusal to act, was understood by Thornton as equivalent to an avowal that the new Administration, controlled by Virginians, would not venture, even in the future emergency of a demand for extradition under treaty, to risk the displeasure of Virginia.<sup>1</sup> Desertion, therefore, received no discouragement from the United States government; on the contrary, deserters, known to be such, were received at once into the national service, and their surrender refused. Under such circumstances the British government was not likely to be more accommodating than the American.

As the summer of 1802 approached, President

<sup>1</sup> Thornton to Hawkesbury, Oct. 25 and Nov. 26, 1802 : MSS. British Archives.

Jefferson drew into closer and more confidential relations with Thornton. During the Federalist rule the two countries were never on more affectionate terms. At London Rufus King and Christopher Gore received courteous attention from Lord Hawkesbury. At Washington, Thornton's intimacy at the White House roused the jealousy and alarm of Pichon. As Bonaparte's projects against Louisiana disclosed themselves, and as Leclerc's first successes at St. Domingo opened the French path to New Orleans, Jefferson began to pay sudden and almost eager court to Thornton, who was a little embarrassed by the freedom with which the President denounced the First Consul. The preliminary articles of peace between France and England had been signed Oct. 1, 1801; but the treaty of Amiens, which made these articles definitive, was signed only March 25, 1802. Addington was naturally anxious that the peace should be maintained; indeed, no one could doubt that the existence of his Ministry depended on maintaining it. Thornton had no instructions which warranted him in intriguing against the First Consul, or in making preparations for a new war; and yet hardly was the treaty of Amiens made public, when President Jefferson began to talk as though England were still at war, and it were only a question of time when the United States must become her ally. The Louisiana question excited him. In April he wrote his letters to Dupont and Livingston. At about the same time he took Thornton into his confidence.

“ I have had many occasions since it was first started,” wrote Thornton,<sup>1</sup> “ of conversing freely with Mr. Jefferson on this topic, which is indeed peculiarly interesting to him, and his reflections on which he utters with perhaps too little caution to persons who are not disposed to think very favorably of any change of sentiments with respect to France. He not only regards the cession of Louisiana and New Orleans as a certain cause of future war between the two countries, but makes no scruple to say that if the force of the United States should be unable to expel the French from those settlements, they must have recourse to the assistance of other Powers, meaning unquestionably Great Britain. With regard to France and the person who is at the head of its government, whether in consequence of the projected cession of Louisiana or of the little account which seems to be made of the United States as well at Paris as by French officers in other parts of the world, Mr. Jefferson speaks in very unqualified terms of the usurpation of Bonaparte, of the arbitrary nature and spirit of his government, of his love of flattery and vain pomp,—features, according to Mr. Jefferson, which indicate the frivolous character of his mind rather than a condescension to the taste of the French people. The presses in America devoted to the President’s Administration make use of the same language; and without pretending to say that this party is cured of its bitterness against Great Britain, I can safely venture to assure your Lordship that its predilection for France scarcely exists even in name.”

After the stoppage of the *entrepôt* at New Orleans, when public opinion seemed intent on driving Jeffer-

<sup>1</sup> Thornton to Hawkesbury, July 3, 1802; MSS. British Archives.

son into the war with France which he had predicted, Thornton found himself and his government in favor at Washington. The Republicans were even better disposed than the Federalists. Jefferson was willing to abolish between England and America the discriminating duties on shipping which the New England Federalists had imposed, and which they still wished to maintain for use in the disputed West Indian trade. He told Thornton that he could no doubt carry the repeal of these countervailing duties through Congress over the heads of the opposition,<sup>1</sup> "but he wished it to be adopted in consequence of their own conviction, rather than by a contrary conduct to afford them the least ground for asserting that the Southern States were carrying into execution their scheme of ruin against the navigation and commerce of their Eastern brethren." Jefferson was rapidly becoming the friend and confidant of England. Thornton, naturally delighted with his own success, and with the mortifications and anxieties of Yrujo and Pichon, went so far as to urge his government to help the views of the United States against Louisiana:<sup>2</sup>—

"I should hope, my Lord, that by having some share in the delivery of this Island of New Orleans to the United States, which it will be impossible to keep from them whenever they choose to employ force, his Majesty's

<sup>1</sup> Thornton to Hawkesbury, Dec. 31, 1802 ; MSS. British Archives.

<sup>2</sup> Thornton to Hawkesbury, Jan. 3, 1803 ; MSS. British Archives.

government may hereafter attach still more this country to our interests, and derive all the advantage possible from the intercourse with that important part of the world. A very great change has gradually taken place in the opinions of all ranks in this government in favor of Great Britain, which has struck observers more likely to be impartial than myself. A sense of a common interest has a great share in the change; but the conduct of France in all her relations has not failed to produce its full effect; and I find men, formerly the most vehement in their politics, asserting in the most unqualified terms the necessity of a union among all the members of the civilized world to check her encroachments and to assure the general tranquillity."

A few days later the President nominated Monroe to act with Livingston and Pinckney in an attempt to purchase New Orleans. This step, which was openly avowed to be the alternative and perhaps the antecedent of war with France, brought Thornton into still more confidential relations with the Government. Finding that the Secretary of State was as cautious as the President was talkative, Thornton carried on an active intercourse with the latter. He first offered to detain the British government packet for Monroe's use; but it was found that a month or two of delay would be necessary. Then, without instructions from his Government, Thornton took a bolder step:<sup>1</sup>—

"This state of things has naturally excited a sentiment of common interest, and has encouraged me to enter with

<sup>1</sup> Thornton to Hawkesbury, Jan. 31, 1803; MSS. British Archives.

more freedom into the subject, as well with the President as with Mr. Madison, than I should otherwise have thought right, without being acquainted with the views of his Majesty's government. Under this impression, I ventured, immediately after the nomination and before the first arrival of Mr. Monroe, to inquire of the President whether it was his intention to let him pass over to England, and hold any conversation with his Majesty's ministers upon the general question of the free navigation of the Mississippi. The inquiry was somewhat premature, and I made it with some apology. Mr. Jefferson replied, however, unaffectedly, that at so early a stage of the business he had scarcely thought himself what it might be proper to do; . . . that, on the whole, he thought it very probable that Mr. Monroe might cross the Channel. . . . Some time after Mr. Monroe's arrival, actuated by the same view, I mentioned to Mr. Jefferson that it would give me pleasure to furnish the former with an introduction to his Majesty's ambassador at Paris, as it would afford me the occasion of making Lord Whitworth acquainted with the nature of the object in dispute between this country, France, and Spain, and would give to Mr. Monroe, if he were disposed of himself, or were instructed by his Government to seek it, a more ready pretext for opening himself to his Lordship, and of keeping him apprised of the progress and turn of the negotiation. Mr. Jefferson seemed pleased with this offer, and said he was sure Mr. Monroe would accept it with great thankfulness."

Madison talked less freely than his chief, and contented himself with explaining to the British representative that the views of the Government in



sending Monroe to France were limited to the hope of inducing the First Consul by money, or other means of persuasion, to cede in Louisiana a place of deposit over which the United States might have absolute jurisdiction. He did not tell Thornton of the decision made by the Cabinet, and the instructions given to Monroe, April 18, 1803, to offer terms of alliance with England in case the First Consul should make war;<sup>1</sup> but the tone of cordiality in Government and people, both in public and private, in New York, Boston, and Philadelphia, as in the South and West, was gratifying to British pride, and would have been still more so had not the community somewhat too openly avowed the intention of leaving England, if possible, to fight alone. At the first news of the approaching rupture between France and England, this wish began to appear so plainly that Thornton was staggered by it. The Americans took no trouble to conceal the hope that England would have to fight their battles for them.<sup>2</sup>

“The manifest advantage that such a state of things is calculated to give to their negotiation with France, and which is already sensibly felt in the altered tone and conduct of the French government, . . . will sufficiently account for their wishes and for this belief. But possessing the same opinion of the encroachments of France, and of the barrier which Great Britain alone places between her and the United States, and actuated, as I really believe

<sup>1</sup> See p. 2.

<sup>2</sup> Thornton to Hawkesbury, May 30, 1803; MSS. British Archives.

they are, by sincere wishes for our success, I am afraid they begin to see more clearly that in a state of war we are effectually fighting their battles, without the necessity of their active interference; and they recur once more to the flattering prospect of peace and a lucrative neutrality."

In this state of doubt President Jefferson continued his intimate relations with Thornton.

"He expressed himself very freely," wrote Thornton, May 30, 1803, "on the contemptible and frivolous conduct, as he termed it, of a Government that could alter its language so entirely on the prospect of an approaching rupture with another nation, — which he acknowledged instantly, on my mention of it, had been the case toward Mr. Livingston."

Jefferson attributed Bonaparte's returning courtesy to fear rather than to foresight. Thornton himself began to feel the danger that Bonaparte, after all, might outwit him. He revised his opinion about Louisiana. England, he saw, had the strongest motives for wishing France to keep that province.

"The most desirable state of things," he wrote, "seems to be that France should become mistress of Louisiana, because her influence in the United States would be by that event lost forever, and she could only be dispossessed by a concert between Great Britain and America in a common cause, which would produce an indissoluble bond of union and amity between the two countries."

This cordiality between England and the United States lasted without interruption until midsummer.

Pichon complained, as has been shown, of the attentions paid to Thornton by the President.<sup>1</sup> "I remarked at table that he redoubled his courtesies and attentions toward the British *chargé*." The dinner was in the month of January; in the following June Pichon wrote that the President had begun to accept the idea of seeing the British at New Orleans:<sup>2</sup>—

"Mr. Jefferson told me a few days ago that he was engaged in letting that Power know that her presence there would be seen with regret; but I perceive that, little by little, people are familiarizing themselves with this eventuality, as their fears increase in regard to us. They are so convinced that England sees more and more her true interests in relation to the United States, and is resolved to conciliate them, that they have no doubt of her lending herself to some arrangement. What they fear most is that, as the price of this accommodation, she may require the United States to take an active part in the indispensable war; and this is what they ardently wish to avoid."

Until July 3, 1803, the relations between President Jefferson's government and that of Great Britain were so cordial as to raise a doubt whether the United States could avoid becoming an ally of England, and taking part in the war with France. Suddenly came the new convulsion of Europe.

<sup>1</sup> Pichon to Talleyrand, 8 Pluviôse, An xi. (Jan. 28, 1803); Archives des Aff. Étr., MSS.

<sup>2</sup> Pichon to Talleyrand, 14 Prairial, An xii. (June 3, 1803); Archives des Aff. Étr., MSS.

“It was on the third of this month,” wrote Pichon July 7, 1803, “the eve of the anniversary of Independence, that we received two pieces of news of the deepest interest for this country, — that of the rupture between France and England, proclaimed by the latter on May 16, and that of the cession of Louisiana and New Orleans, made by us on April 30.”<sup>1</sup>

The next day, when Pichon attended the usual reception at the White House, he found himself received in a manner very different from that to which he had been of late accustomed.

The two events, thus coming together, were sure to affect seriously the attitude of the United States toward England. Not only did Jefferson no longer need British aid, but he found himself in a position where he could afford with comparative freedom to insist upon his own terms of neutrality. He had always felt that Great Britain did not sufficiently respect this neutrality; he never failed to speak of Jay's treaty in terms of vehement dislike; and he freely avowed his intention of allowing all commercial treaties to expire. The relation between these treaties and the rights of neutrality was simple. Jefferson wanted no treaties which would prevent him from using commercial weapons against nations that violated American neutrality; and therefore he reserved to Congress the right to direct commerce in whatever paths the Government might prefer.

<sup>1</sup> Pichon to Talleyrand, 18 Messidor, An xii. (July 7, 1803); Archives des Aff. Étr., MSS.

“On the subject of treaties,” he wrote,<sup>1</sup> “our system is to have none with any nation, as far as can be avoided. The treaty with England has therefore not been renewed, and all overtures for treaty with other nations have been declined. We believe that with nations, as with individuals, dealings may be carried on as advantageously, perhaps more so, while their continuance depends on a voluntary good treatment, as if fixed by a contract, which, when it becomes injurious to either, is made by forced constructions to mean what suits them, and becomes a cause of war instead of a bond of peace.”

Such a system was best suited to the strongest nations, and to those which could control their dealings to most advantage. The Administration believed that the United States stood in this position.

The President and Secretary Madison were inclined to assert authority in their relations with foreign Powers. Even so early as the preceding February, before Monroe sailed for Europe, Madison told Pichon of this intention.<sup>2</sup> “He added,” wrote Pichon to Talleyrand, “that if war should be renewed, as seemed probable, the United States would be disposed to take a higher tone than heretofore, that Europe had put their spirit of moderation to proofs that would be no longer endured.” Immediately after hearing of the Louisiana cession, Pichon wrote that the same

<sup>1</sup> Jefferson to Mazzei, July 18, 1804; Works, iv. 552.

<sup>2</sup> Pichon to Talleyrand, 1 Ventôse, An xi. (Feb. 20, 1803); Archives des Aff. Étr., MSS.

spirit continued to animate the Government.<sup>1</sup> "It is certain that they propose to cause the neutrality of the United States to be more exactly respected by the belligerent Powers than in the last war. The Government has often shown its intentions in this respect, from the time when everything pointed to an infallible rupture between us and England." President Jefferson, while avowing a pacific policy, explained that his hopes of peace were founded on his power to affect the interests of the belligerents. At the same moment when Pichon wrote thus to Talleyrand, the President wrote to the Earl of Buchan:<sup>2</sup> —

"My hope of preserving peace for our country is not founded in the Quaker principle of non-resistance under every wrong, but in the belief that a just and friendly conduct on our part will procure justice and friendship from others. In the existing contest, each of the combatants will find an interest in our friendship."

He was confident that he could control France and England:<sup>3</sup> "I do not believe we shall have as much to swallow from them as our predecessors had."

The Louisiana question being settled, the field was clear for the United States to take high ground in behalf of neutral rights; and inevitably the first step must be taken against England. No one denied that thus far the administration of Addington had be-

<sup>1</sup> Pichon to Talleyrand, 18 Messidor, An xii. (July 7, 1803); Archives des Aff. Étr., MSS.

<sup>2</sup> Jefferson to Earl of Buchan, July 10, 1803; Works, iv. 493.

<sup>3</sup> Jefferson to General Gates, July 11, 1803; Works, iv. 494.



haved well toward the United States. Rufus King brought to America at the same time with news of the Louisiana treaty, or had sent shortly before, two conventions by which long-standing differences were settled. One of these conventions disposed of the old subject of British debts, — the British government accepting a round sum of six hundred thousand pounds on behalf of the creditors.<sup>1</sup> The other created two commissions for running the boundary line between Maine and Nova Scotia, and between the Lake of the Woods and the Mississippi River.<sup>2</sup> King went so far as to express the opinion that had he not been on the eve of his departure, he might have succeeded in making some arrangement about impressments; and he assured Gallatin that the actual Administration in England was the most favorable that had existed or could exist for the interests of the United States; its only misfortune was its weakness.<sup>3</sup> The conduct of the British government in regard to Louisiana proved the truth of King's assertion. Not only did it offer no opposition to the sale, but it lent every possible assistance to the transfer; and under its eye, with its consent, Alexander Baring made the financial arrangements which were to furnish Bonaparte with ten million American dollars to pay the preliminary expenses of an invasion of England.

<sup>1</sup> State Papers, ii. 382.

<sup>2</sup> State Papers, ii. 584.

<sup>3</sup> Gallatin to Jefferson, Aug. 18, 1803; Gallatin's Works, i. 140.

Nevertheless, if the United States government intended to take a high tone in regard to neutral rights, it must do so from the beginning of the war. Aware that success in regard to England, as in regard to Spain, depended on asserting at the outset, and maintaining with obstinacy, the principles intended to be established, the President and Secretary Madison lost no time in causing their attitude to be clearly understood. An opportunity of asserting this authoritative tone was given by the appearance of a new British minister at Washington; and thus it happened that at the time when the Secretary of State was preparing for his collision with the Marquis of Casa Yrujo and the Spanish empire, he took on his hands the more serious task of curbing the pretensions of Anthony Merry and the King of England.

## CHAPTER XVI.

ONE of Addington's friendly acts was the appointment of Anthony Merry as British minister to the United States. For this selection Rufus King was directly responsible. Two names were mentioned to him by the Foreign Office as those of the persons entitled to claim the place; one was that of Merry, the other was that of Francis James Jackson.

"As I have had the opportunity of knowing both these gentlemen during my residence here," wrote Minister King to Secretary Madison,<sup>1</sup> "it was not without some regret that I heard of the intention to appoint Mr. Jackson in lieu of Mr. Merry. From this information I have been led to make further inquiry concerning their reputations, and the result has proved rather to increase than to lessen my solicitude. Mr. Jackson is said to be positive, vain, and intolerant. He is moreover filled with English prejudices in respect to all other countries, and as far as his opinions concerning the United States are known, seems more likely to disserve than to benefit a liberal intercourse between them and his own country. On the other hand, Mr. Merry appears to be a plain, unassuming, and amiable man, who having lived for

<sup>1</sup> King to Madison, April 10, 1802; MSS. State Department Archives.

many years in Spain is in almost every point of character the reverse of Mr. Jackson, who were he to go to America would go for the sake of present employment and with the hope of leaving it as soon as he could receive a similar appointment in Europe; while Mr. Merry wishes for the mission with the view of obtaining what he believes will prove to be an agreeable and permanent residence."

In deference to Rufus King's wishes or for some other reason Merry received the appointment. Doubtless he came to America in the hope of finding a "permanent residence," as King remarked; but it could hardly be agreeable, as he hoped. He was a thorough Englishman, with a wife more English than himself. He was not prepared for the isolation of the so-called Federal City, and he did not expect to arrive at a moment when the United States government, pleased with having curbed Bonaparte, was preparing to chasten Spain and to discipline England.

Landing at Norfolk from a ship of war Nov. 4, 1803, Merry was obliged to hire a vessel to carry himself and his belongings to Washington, where, after a tempestuous voyage, he at last arrived, November 26. Possibly Mr. and Mrs. Merry, like other travellers, would have grumbled even though Washington had supplied them with Aladdin's palace and Aladdin's lamp to furnish it; but the truth was not to be denied that the Federal City offered few conveniences, and was better suited for members of Congress, who lived without wives in boarding-houses, than for foreign

ministers, with complaining wives, who were required to set up large establishments and to entertain on a European scale.

“I cannot describe to you,” wrote Merry privately,<sup>1</sup> “the difficulty and expense which I have to encounter in fixing myself in a habitation. By dint of money I have just secured two small houses on the common which is meant to become in time the city of Washington. They are mere shells of houses, with bare walls and without fixtures of any kind, even without a pump or well, all which I must provide at my own cost. Provisions of any kind, especially vegetables, are frequently hardly to be obtained at any price. So miserable is our situation.”

Had these been the worst trials that awaited the new British minister, he might have been glad to meet them; for when once surmounted, they favored him by preventing social rivalry. Unfortunately he met more serious annoyances. Until his arrival, Yrujo was the only minister of full rank in the United States; and Yrujo's intimate relations at the White House had given him family privileges. For this reason the Spanish minister made no struggle to maintain etiquette, but living mostly in Philadelphia disregarded the want of what he considered good manners at Washington, according to which he was placed on the same social footing with his own secretary of legation. Yet Yrujo, American in many respects, belonged to the school of Spanish diplomacy which had for centuries studied points of honor.

<sup>1</sup> Merry to Hammond, Dec. 7, 1803; MSS. British Archives.

He might well have made with his own mouth the celebrated retort which one of his predecessors made to Philip II., who reproached him with sacrificing an interest to a ceremony: "How a ceremony? Your Majesty's self is but a ceremony!" Although Yrujo submitted to Jefferson, he quarrelled with Pichon on this point, for Pichon was only a secretary in charge of the French legation. In November, 1803, Yrujo's friendship for Jefferson was cooling, and he waited the arrival of Merry in the hope of finding a champion of diplomatic rights. Jefferson, on the other hand, waited Merry's arrival in order to establish, once for all, a new social code; and that there might be no misunderstanding, he drafted with his own hand the rules which were to control Executive society, — rules intended to correct a tendency toward monarchical habits introduced by President Washington.

In 1801 on coming into power Jefferson announced that he would admit not the smallest distinction that might separate him from the mass of his fellow-citizens. He dispensed with the habit of setting apart certain days and hours for receiving visits of business or curiosity, announcing that he would on any day and at any hour receive in a friendly and hospitable manner those who should call upon him.<sup>1</sup> He evidently wished to place the White House on the footing of easy and generous hospitality which

<sup>1</sup> Thornton to Hawkesbury, Dec. 9, 1801; MSS. British Archives.



was the pride of every Virginia gentleman. No man should be turned away from its doors; its table, liberal and excellent, should be filled with equal guests, whose self-respect should be hurt by no artificial rules of precedence. Such hospitality cost both time and money; but Washington was a petty village, society was very small, and Jefferson was a poor economist. He entertained freely and handsomely.

“Yesterday I dined with the President,” wrote Senator Plumer of New Hampshire, Dec. 25, 1802.<sup>1</sup> “His rule is to have about ten members of Congress at a time. We sat down to the table at four, rose at six, and walked immediately into another room and drank coffee. We had a very good dinner, with a profusion of fruits and sweetmeats. The wine was the best I ever drank, particularly the champagne, which was indeed delicious. I wish his French politics were as good as his French wines.”

So long as this manner of life concerned only the few Americans who were then residents or visitors at Washington, Jefferson found no great difficulty in mixing his company and disregarding precedence. Guests accommodated themselves to the ways of the house, took care of their own comfort, went to table without special request, and sat wherever they found a vacant chair; but foreigners could hardly be expected at first to understand what Jefferson called the rule of pell-mell. Thornton and Pichon, being only secretaries of legation, rather gained than lost

<sup>1</sup> Life of William Plumer, p. 245.

by it; but Yrujo resented it in secret; and all eyes were turned to see how the new British minister would conduct himself in the scramble.

A month afterwards the President drew up the Code which he called "Canons of Etiquette to be observed by the Executive,"<sup>1</sup> and which received the approval of the Cabinet. Foreign ministers, he said, were to pay the first visit to the "ministers of the nation;" their wives were to receive the first visit from the wives of "national ministers." No grades among diplomatic members were to give precedence; "all are perfectly equal, whether foreign or domestic, titled or untitled, in or out of office." Finally, "to maintain the principle of equality, or of *pêle-mêle*, and prevent the growth of precedence out of courtesy, the members of the Executive will practise at their own houses, and recommend an adherence to, the ancient usage of the country,—of gentlemen in mass giving precedence to the ladies in mass in passing from one apartment where they are assembled into another." Such, according to Rufus King, whose aid was invoked on this occasion, was the usage in London.<sup>2</sup>

Merry duly arrived in Washington, and was told by Madison that the President would receive his letter of credence Nov. 29, according to the usual formality. At the appointed hour the British minister, in diplomatic uniform, as was required in the absence of any hint to the contrary, called upon Madison, and was

<sup>1</sup> Jefferson's Works, ix. 454.

<sup>2</sup> King to Madison, 22 Dec., 1803; MSS. State Department Archives.

taken to the White House, where he was received by the President. Jefferson's manner of receiving guests was well known, although this was the first occasion on which he had given audience to a new foreign minister. Among several accounts of his appearance at such times, that of Senator Plumer was one of the best.

"In a few moments after our arrival," said the senator, writing two years before Merry's mishap,<sup>1</sup> "a tall, high-boned man came into the room. He was dressed, or rather undressed, in an old brown coat, red waistcoat, old corduroy small-clothes much soiled, woollen hose, and slippers without heels. I thought him a servant, when General Varnum surprised me by announcing that it was the President."

The "Evening Post," about a year later, described him as habitually appearing in public "dressed in long boots with tops turned down about the ankles like a Virginia buck; overalls of corduroy faded, by frequent immersions in soap suds, from yellow to a dull white; a red single-breasted waistcoat; a light brown coat with brass buttons, both coat and waistcoat quite threadbare; linen very considerably soiled; hair uncombed and beard unshaven." In truth the Virginia republicans cared little for dress. "You know that the Virginians have some pride in appearing in simple habiliments," wrote Joseph Story in regard to Jefferson, "and are willing to rest their claim to attention upon their force of mind and sua-

<sup>1</sup> Life of William Plumer, p. 242.

vity of `manners." Indeed, "Virginia carelessness" was almost a proverb.<sup>1</sup>

On the occasion of Merry's reception, the President's chief offence in etiquette consisted in the slippers without heels. No law of the United States or treaty stipulation forbade Jefferson to receive Merry in heelless slippers, or for that matter in bare feet, if he thought proper to do so. Yet Virginia gentlemen did not intentionally mortify their guests; and perhaps Madison would have done better to relieve the President of such a suspicion by notifying Merry beforehand that he would not be expected to wear full dress. In that case the British minister might have complimented Jefferson by himself appearing in slippers without heels.

A card of invitation was next sent, asking Mr. and Mrs. Merry to dine at the White House, December 2. Such an invitation was in diplomatic usage equivalent to a command, and Merry at once accepted it. The new minister was then told that he must call on the heads of departments. He remonstrated, saying that Liston, his predecessor, had been required to make the first visit only to the Secretary of State; but he was told, in effect, that what had been done under the last Administration was no rule for the present one. Merry acquiesced, and made his calls. These pin-thrusts irritated him; but he was more seriously inconvenienced by the sudden withdrawal of diplomatic privileges by the Senate, although Vice-

<sup>1</sup> Life of Joseph Story, pp. 151, 158.

President Burr took occasion to explain that the Senate's action was quite unconnected with the President's "canons of etiquette," and was in truth due to some indiscretion of Yrujo in the House of Representatives.

Meanwhile the President took an unusual step. When two countries were at war, neutral governments commonly refrained from inviting the representative of one belligerent to meet the representative of the other, unless on formal occasions where the entire diplomatic body was invited, or in crowds where contact was not necessary. Still more rarely were such incongruous guests invited to an entertainment supposed to be given in honor of either individual. No one knew this rule better than Jefferson, who had been himself four years in diplomatic service at Paris, besides being three years Secretary of State to President Washington at Philadelphia. He knew that the last person whom Merry would care to meet was Pichon, the French *chargé*; yet he not only invited Pichon, but pressed him to attend. The Frenchman, aware that Merry was to be mortified by the etiquette of the dinner, and watching with delight the process by which Jefferson, day after day, took a higher tone toward England, wrote an account of the affair to Talleyrand.<sup>1</sup> He said: —

"I was invited to this dinner. I had learned from the President what was the matter (*ce qui en était*),

<sup>1</sup> Pichon to Talleyrand, 15 Pluviôse, An xii. (Feb. 5, 1804); Archives des Aff. Étr., MSS.

when I went to tell him that I was going for some days to Baltimore, where I was called by the affairs of the frigate 'La Poursuivante.' The President was so obliging as to urge my return in order to be present with Mme. Pichon at the dinner (*Le Président eut l'honnêteté de me presser de revenir pour être au diner*). I came back here, although business required a longer stay at Baltimore. Apart from the reason of respect due to the President, I had that of witnessing what might happen (*j'avais celle de connaître ce qui se passerait*)."

Pichon accordingly hurried back from Baltimore, especially at the President's request, in order to have the pleasure of seeing Jefferson humiliate his own guest in his own house.

Pichon was gratified by the result. At four o'clock on the afternoon of Dec. 2, 1803, this curious party assembled at the White House, — Mr. and Mrs. Merry, the Marquis Yrujo and his American wife, M. Pichon and his American wife, Mr. and Mrs. Madison, and some other persons whose names were not mentioned. When dinner was announced, the President offered his hand to Mrs. Madison and took her to table, placing her on his right. Mme. Yrujo took her seat on his left.

"Mrs. Merry was placed by Mr. Madison below the Spanish minister, who sat next to Mrs. Madison. With respect to me," continued the British minister in his account of the affair,<sup>1</sup> "I was proceeding to place myself, though without invitation, next to the wife of the

<sup>1</sup> Merry to Hawkesbury, Dec. 6, 1803; MSS. British Archives.



Spanish minister, when a member of the House of Representatives passed quickly by me and took the seat, without Mr. Jefferson's using any means to prevent it, or taking any care that I might be otherwise placed. . .

"I will beg leave to intrude a moment longer on your Lordship's time," continued Merry's report, "by adding to this narrative that among the persons (none of those who were of this country were the principal officers of the government except Mr. Madison) whom the President selected for a dinner which was understood to be given to me, was M. Pichon the French *chargé d'affaires*. I use the word *selected*, because it could not be considered as a diplomatic dinner, since he omitted to invite to it the Danish *chargé d'affaires*, who, with the Spanish minister, form the whole body."

Merry's report was brief; but Yrujo, who also made an official report to his Government, after mentioning the neglect shown to Merry before dinner, added a remark that explained the situation more exactly: <sup>1</sup>—

"I observed immediately the impression that such a proceeding of the President must have on Mr. and Mrs. Merry; and their resentment could not but be increased at seeing the manifest, and in my opinion studied, preference given by the President throughout to me and my wife over him and Mrs. Merry."

There the matter might have rested, had not Madison carried the new "canons" beyond the point of endurance. December 6, four days after the dinner at the White House, the British minister was to dine

<sup>1</sup> Yrujo to Cevallos, Feb. 7, 1804; MSS. Spanish Archives.

with the Secretary of State. Pichon and Yrujo were again present, and all the Cabinet with their wives. Yrujo's report described the scene that followed.

"I should observe," said he, "that until then my wife and I had enjoyed in the houses of Cabinet ministers the precedence of which we had been deprived in the President's house; but on this day the Secretary of State too altered his custom, without informing us beforehand of his resolution, and took to table the wife of the Secretary of the Treasury. This unexpected conduct produced at first some confusion, during which the wife of the British minister was left without any one giving her his hand, until her husband advanced, with visible indignation, and himself took her to table."

Even Pichon, though pleased to see the British minister humbled, felt his diplomatic pride a little scandalized at this proceeding. He admitted that it was an innovation, and added,—

"There is no doubt that Mr. Madison in this instance wished to establish in his house the same formality as at the President's, in order to make Mr. Merry feel more keenly the scandal he had made; but this incident increased it."

The scandal which Merry had made consisted in saying that he believed his treatment at the White House was a premeditated insult against his country. Madison's course took away any remaining doubt on the subject in his mind. Merry became bitter. He wrote home informally:<sup>1</sup>—

<sup>1</sup> Merry to Hammond, Dec. 7, 1803; MSS. British Archives.

“ On this occasion, also, the *pas* and the preference in every respect was taken by, and given to, the wives of the Secretaries of the Departments (a set of beings as little without the manners as without the appearance of gentlewomen), the foreign ministers and their wives being left to take care of themselves. In short the latter are now placed here in a situation so degrading to the countries they represent, and so personally disagreeable to themselves, as to have become almost intolerable. The case yesterday was so marked and so irritating that I determined to hand Mrs. Merry myself to the table, and to place ourselves wherever we might conveniently find seats.”

Merry then received an official explanation that Jefferson invariably gave precedence to the wives of his Cabinet ministers, and that he made no exceptions in favor of foreigners in his rule of *pêle-mêle*.<sup>1</sup> Merry notified Lord Hawkesbury to that effect. He did not fail to point out the signs which indicated to him that these proceedings were but part of a general plan intended to press on the British government. In truth, the whole issue lay in the question whether that intent influenced Jefferson's behavior.

A sort of civil war ensued in the little society of Washington, in which the women took prominent part, and Mrs. Merry gave back with interest the insults she considered herself to have received. The

<sup>1</sup> Madison to Monroe, 19 Jan., 1804. Madison MSS., State Department Archives. Merry to Hawkesbury, 30 Jan., 1801. MSS. British Archives.

first serious evil was an alliance between Merry and Yrujo, the two men whom Jefferson had most interest in keeping apart. Pichon wrote home a lively account of the hostilities that followed.<sup>1</sup>

“M. Yrujo, who is vanity itself, blew the flame more vigorously than ever. . . . He concerted reprisals with Mr. Merry, and it was agreed that whenever they should entertain the secretaries and their wives, they should take none of them to table, but should give their hands to their own wives. This resolution was carried out at a dinner given some days afterward by M. Yrujo. Mr. and Mrs. Merry were next invited by the Secretary of the Navy. Mrs. Merry refused; yet this minister, a very well-bred man (*homme fort poli*), had so arranged things as to give her his hand. Apparently what had taken place at Mr. Madison’s was thought harsh (*dur*), and it was wished to bring Mr. and Mrs. Merry back to a reconciliation. The Cabinet took up the question, as reported in the newspaper of which I sent you an extract, and it was resolved that hereafter the President should give his hand to the lady who might happen to be nearest him, and that there should be no precedence. Mr. Merry was invited to a tea by the Secretary of War and by the Secretary of the Treasury. To avoid all discussion he wholly refused the first, and after accepting the second he did not come. Finally, New Year’s Day gave another occasion for scandal. On this day, as on the Fourth of July, it is the custom to call upon the President; and even the ladies go there. This year neither Mme. Yrujo nor Mrs. Merry went, and the Marquis took care to

<sup>1</sup> Pichon to Talleyrand, 15 Pluviôse, An xii. (Feb. 5, 1804); Archives des Aff. Étr., MSS.

answer every one who inquired after his wife's health, that she was perfectly well. Since then Washington society is turned upside down; all the women are to the last degree exasperated against Mrs. Merry; the Federal newspapers have taken up the matter, and increased the irritation by sarcasms on the Administration and by making a burlesque of the facts, which the Government has not thought proper to correct. The arrival of M. Bonaparte with his wife in the midst of all this explosion has furnished Mr. Merry with new griefs. The President asked M. and Mme. Bonaparte to dinner, and gave his hand to Madame. There was, however, this difference between the two cases,—the President had invited on this day, besides myself and Mme. Pichon, only the two Messrs. Smith and their wives, who are of Mme. Bonaparte's family. But when Mr. Merry heard of it, he remarked that Mme. Bonaparte had on this occasion taken precedence of the wife of the Secretary of the Navy. . . I am aware," continued the delighted Pichon, "that with tact on the part of Mr. Jefferson he might have avoided all these scandals."

The British minister wrote to Lord Hawkesbury a brief account of his reception, closing with the remark:<sup>1</sup>—

"Under these circumstances, my Lord, I have thought it advisable to avoid all occasions where I and my wife might be exposed to a repetition of the same want of distinction toward us until I shall have received authority from you to acquiesce in it, by a signification of his Majesty's pleasure to that effect."

<sup>1</sup> Merry to Hawkesbury, Dec. 31, 1803; MSS. British Archives.

Accordingly, when the President invited the two ministers to dine at the White House without their wives, they replied that they could not accept the invitation until after receiving instructions from their Governments. Jefferson regarded this concerted answer as an insult.<sup>1</sup> He too lost his temper so far as to indulge in sharp comments, and thought the matter important enough to call for explanation. In a private letter to Monroe, dated Jan. 8, 1804, he wrote:<sup>2</sup>—

“ Mr. Merry is with us, and we believe him to be personally as desirable a character as could have been sent us ; but he is unluckily associated with one of an opposite character in every point. She has already disturbed our harmony extremely. He began by claiming the first visit from the national ministers. He corrected himself in this ; but a pretension to take precedence at dinner, etc., over all others is persevered in. We have told him that the principle of society as well as of government with us is the equality of the individuals composing it ; that no man here would come to a dinner where he was to be marked with inferiority to any other ; that we might as well attempt to force our principle of equality at St. James’s as he his principle of precedence here. I had been in the habit when I invited female company (having no lady in my family) to ask one of the ladies of the four Secretaries to come and take care of my company,

<sup>1</sup> Pichon to Talleyrand, 27 Pluviôse, An xii. (Feb. 13, 1804) ; Archives des Aff. Étr., MSS.

<sup>2</sup> Jefferson to Monroe, Jan. 8, 1804 ; Jefferson’s Writings (Ford), viii. 286. Cf. Madison to Monroe, 16 Feb. 1804. Madison’s Works, ii. 195–199.



and as she was to do the honors of the table I handed her to dinner myself. That Mr. Merry might not construe this as giving them a precedence over Mrs. Merry I have discontinued it, and here as in private houses the *pêle-mêle* practice is adhered to. They have got Yrujo to take a zealous part in the claim of precedence. It has excited generally emotions of great contempt and indignation (in which the members of the Legislature participate sensibly) that the agents of foreign nations should assume to dictate to us what shall be the laws of our society. The consequence will be that Mr. and Mrs. Merry will put themselves into coventry, and that he will lose the best half of his usefulness to his nation, — that derived from a perfectly familiar and private intercourse with the Secretaries and myself. The latter, be assured, is a virago, and in the short course of a few weeks has established a degree of dislike among all classes which one would have thought impossible in so short a time. . . . With respect to Merry, he appears so reasonable and good a man that I should be sorry to lose him as long as there remains a possibility of reclaiming him to the exercise of his own dispositions. If his wife perseveres she must eat her soup at home, and we shall endeavor to draw him into society as if she did not exist."

Of all American hospitality none was so justly famous as that of Virginia. In this State there was probably not a white man, or even a negro slave, but would have resented the charge that he was capable of asking a stranger, a foreigner, a woman, under his roof, with the knowledge that he was about to inflict what the guest would feel as a humiliation. Still less would he have selected his guest's only

enemy, and urged him to be present for the purpose of witnessing the slight. Reasons of state sometimes gave occasion for such practices, but under the most favorable conditions the tactics were unsafe. Napoleon in the height of his power insulted queens, brow-beat ambassadors, trampled on his ministers, and made his wife and servants tremble; but although these manners could at his slightest hint be imitated by a million soldiers, until Europe, from Cadiz to Moscow, cowered under his multiplied brutality, the insults and outrages recoiled upon him in the end. Jefferson could not afford to adopt Napoleonic habits. His soldiers were three thousand in number, and his own training had not been that of a successful general; he had seven frigates, and was eager to lay them up in a single dry-dock. Peace was his passion.

To complicate this civil war in the little society of Washington, Jerome Bonaparte appeared there, and brought with him his young wife, Elizabeth Patterson, of Baltimore. Jerome married this beautiful girl against the remonstrances of Pichon; but after the marriage took place, not only Pichon, but also Yrujo and Jefferson, showed proper attention to the First Consul's brother, who had selected for his wife a niece of the Secretary of the Navy, and of so influential a senator as General Smith. Yet nothing irritated Napoleon more than Jerome's marriage. In some respects it was even more objectionable to him than that of Lucien, which gave rise to a family feud. Pichon suspected what would be the First Consul's

feelings, and wrote letter after letter to clear himself of blame. In doing so he could not but excite Napoleon's anger against American society, and especially against the family of his new sister-in-law.

"It appears, Citizen Minister," wrote Pichon to Talleyrand,<sup>1</sup> "that General Smith, who in spite of the contrary assurances he has given me, has always had this alliance much at heart, has thrown his eyes on the mission to Paris as a means of appeasing (*ramener*) the First Consul. He has long since aimed at the diplomatic career, for which he is little qualified; this motive and the near return of Mr. Livingston have decided his taste. For some time there has been much question of this nomination among the friends of General Smith. There is also question of promoting, on the part of the First Consul, for minister to this country, a selection which should be connected with the other. It is thought that the appointment of M. Jerome Bonaparte would be an honorable mode of leaving the First Consul's brother time to have his fault forgotten, and of preparing his return to favor."

Such readiness among Jefferson's advisers to court the favors of the young First Consul was sure not to escape the eyes of the embittered Federalists. Pichon's account, although sharp in allusions to General Smith's "vanity," was mild compared with the scorn of the New Englanders. Apparently the new matrimonial alliance was taken seriously by prominent Republican leaders. One of the Massachusetts sena-

<sup>1</sup> Pichon to Talleyrand, 30 Pluviôse, An xii. (Feb. 16, 1804); Archives des Aff. Étr., MSS.

tors mentioned in his diary<sup>1</sup> a "curious conversation between S. Smith, Breckenridge, Armstrong, and Baldwin, about 'Smith's nephew, the First Consul's brother.' Smith swells upon it to very extraordinary dimensions." Pichon openly spoke of the whole family connection, including both Robert and Samuel Smith, and even Wilson Cary Nicholas, as possessed with "an inconceivable infatuation" for the match; "it was really the young man who was seduced." Nothing that Pichon could say affected them. Senator J. Q. Adams remarked: "the Smiths are so elated with their supposed elevation by this adventure, that one step more would fit them for the discipline of Dr. Willis," — the famous English expert in mental diseases.<sup>2</sup>

The President and his friends might not know enough of Napoleon's character to foresee the irritation which such reports would create in his mind, but they were aware of the contrast between their treatment of Jerome Bonaparte and their slights to Anthony Merry. Had they felt any doubt upon the subject, the free comments of the British minister and his wife would have opened their eyes. In truth, no doubt existed. Washington society was in a manner ordered to proscribe the Merrys and Yrujo, and pay court to Jerome and the Smiths.

Had this been all, the matter would have ended in a personal quarrel between the two envoys and the

<sup>1</sup> Diary of J. Q. Adams (Jan. 7, 1804), i. 284.

<sup>2</sup> Ibid.

two Virginians, with which the public would have had no concern. Jefferson's "canons of etiquette" would in such a case have had no further importance than as an anecdote of his social habits. The seriousness of Jefferson's experiments in etiquette consisted in the belief that they were part of a political system which involved a sudden change of policy toward two great Powers. The "canons" were but the social expression of an altered feeling which found its political expression in acts marked by equal disregard of usage. The Spanish minister had already reason to know what he might expect; for six weeks before Merry's dinners John Randolph proclaimed in the House that West Florida belonged to the United States, and within the week that preceded Merry's reception, he brought in the Bill which authorized the President to annex Mobile. After such a proceeding, no diplomatist would have doubted what meaning to put upon the new code of Republican society. Merry's arrival, at the instant of this aggression upon Spain, was the signal for taking toward England a higher tone.

Merry could not fail to see what lay before him. From the President, notwithstanding heelless slippers and "canons of etiquette," the British minister heard none but friendly words. After the formal ceremony of delivering the letter of credence was over,—

"He desired me to sit down," wrote Merry,<sup>1</sup> "when we conversed for some time on general affairs. The

<sup>1</sup> Merry to Hawkesbury, Dec. 6, 1803; MSS. British Archives.

sentiments which he expressed respecting those of Europe appeared very properly to be by no means favorable to the spirit of ambition and aggrandizement of the present ruler in France, or to the personal character in any respect of the First Consul, and still less so to his conduct toward all nations."

From this subject the President passed to Spanish affairs and to the Spanish protest against the Louisiana cession, founded on Bonaparte's pledge never to alienate that province.

"This circumstance," continued Merry, "as well as the resistance altogether which Spain had unexpectedly brought forward in words, Mr. Jefferson considered as highly ridiculous, and as showing a very pitiful conduct on her part, since she did not appear to have taken any measures to support it either by preparation of defence on the spot, or by sending there a force to endeavor to prevent the occupation of the country by the troops of the United States. He concluded by saying that possession of it would, at all events, be taken."

If Merry did not contrive, after his dinner at the White House, to impart this conversation to his colleagues Yrujo and Pichon, he must have been a man remarkably free from malice. Meanwhile he had his own affairs to manage, and Madison was not so forbearing as the President. Merry's first despatch announced to his Government that Madison had already raised his tone. Without delay the matter of impressments was brought into prominence. The "pretended" blockade of Martinique and Guadeloupe was also strongly characterized.



"It is proper for me to notice," said Merry in his report of these remonstrances,<sup>1</sup> "that Mr. Madison gave great weight to them by renewing them on every occasion of my seeing him, and by his expressing that they were matters upon which this Government could not possibly be silent until a proper remedy for the evil should be applied by his Majesty's government. His observations were, however, made with great temper, and accompanied with the strongest assurances of the disposition of this Government to conciliate, and to concur in whatever means could be devised which should not be absolutely derogatory to their independence and interests, to establish principles and rules which should be satisfactory to both parties. . . . But, my Lord, while it is my duty to do justice to Mr. Madison's temperate and conciliatory language, I must not omit to observe that it indicated strongly a design on the part of this Government to avail themselves of the present conjuncture by persisting steadily in their demands of redress of their pretended grievances, in the hope of obtaining a greater respect to their flag, and of establishing a more convenient system of neutral navigation than the interests of the British empire have hitherto allowed his Majesty to concur in."

The British government was aware that its so-called right of impressment and its doctrine of blockade rested on force, and could not be maintained against superior force; but this consciousness rendered England only the more sensitive in regard to dangers that threatened her supremacy. Knowing that the United

<sup>1</sup> Merry to Hawkesbury, Dec. 6, 1803; MSS. British Archives.

States would be justified in declaring war at any moment, Great Britain looked uneasily for the first symptoms of retaliation. When Madison took so earnest a tone, Merry might reasonably expect that his words would be followed by acts.

These shocks were not all that the new British minister was obliged to meet at the threshold of his residence in Washington. At the moment when he was, as he thought, socially maltreated, and when he was told by Madison that America meant to insist on her neutral rights, he learned that the Government did not intend to ratify Rufus King's boundary convention. The Senate held that the stipulations of its fifth article respecting the Mississippi might embarrass the new territory west of the river. King had not known the Louisiana cession when he signed the Treaty; and the Senate, under the lead of General Smith,<sup>1</sup> preferred to follow its own views on the subject, as it had done in regard to the second article of the treaty with France, Sept. 30, 1800, and as it was about to do in regard to Pinckney's claims convention, Aug. 11, 1802, with Spain. Merry was surprised to find that Madison, instead of explaining the grounds of the Senate's hesitation, or entering into discussion of the precise geographical difficulty, contented himself with a bald statement of the fact. The British minister thought that this was not the most courteous way of dealing with a treaty negotiated after a full acquaintance with all the cir-

<sup>1</sup> Diary of J. Q. Adams (Oct. 31, 1803), i. 269.

cumstances, and he wrote to his Government to be on its guard :<sup>1</sup> —

“ Notwithstanding Mr. Madison’s assurances to the contrary, I have some reason to suspect that ideas of encroachment on his Majesty’s just rights are entertained by some persons who have a voice in deciding upon the question of the ratification of this convention, not to say that I have much occasion to observe, from circumstances in general, that there exists here a strong impression of the consequence which this country is supposed to have acquired by the recent additions to the territory of the United States, as well as by the actual situation of affairs in Europe.”

In view of the Mobile Act, introduced into Congress by Randolph on behalf of the government a week before this letter was written, Merry’s suspicions could hardly be called unreasonable. A like stretch of authority applied to the northwest territory would have produced startling results.

Merry’s suspicions that some assault was to be made upon England were strengthened when Madison, December 5, in pursuance of a call from the Senate, sent a list of impressments reported to the Department during the last year. According to this paper the whole number of impressments was forty-six, — three of which were made by France and her allies; while of the forty-three made by Great Britain twenty-seven of the seamen were not American citizens. Of the entire number, twelve were

<sup>1</sup> Merry to Hawkesbury, Dec. 6, 1803; MSS. British Archives.

stated to have had American papers; and of the twelve, nearly half were impressed on land within British jurisdiction. The grievance, serious as it was, had not as yet reached proportions greater than before the Peace of Amiens. Merry drew the inference that Jefferson's administration meant to adopt stronger measures than had hitherto been thought necessary. He soon began to see the scope which the new policy was to take.

Dec. 22, 1803, Madison opened in a formal conference the diplomatic scheme which was the outcome of these preliminary movements.<sup>1</sup> Beginning with a repetition of complaints in regard to impressments, and dwelling upon the great irritation created by such arbitrary acts, the secretary next remonstrated against the extent given to the law of blockade by British cruisers in the West Indies, and at length announced that the frequent repetition of these grievances had rendered it necessary for the United States to take immediate steps to find a remedy for them. Instructions would therefore be shortly sent to Monroe at London to negotiate a new convention on these subjects. The American government would wish that its flag should give complete protection to whatever persons might be under it, excepting only military enemies of the belligerent. Further, it would propose that the right of visiting ships at sea should be restrained; that the right of blockade should be more strictly defined, and American ships be allowed,

<sup>1</sup> Merry to Hawkesbury, Dec. 31, 1803; MSS. British Archives.

in consideration of the distance, to clear for blockaded ports on the chance of the blockade being removed before they arrived; and finally that the direct trade between the West Indies and Europe should be thrown open to American commerce without requiring it to pass through a port of the United States.

In return Madison offered to the British government the unconditional surrender of deserters by sea and land, together with certain precautions against the smuggling of articles contraband of war.

Although Madison pressed the necessity of an immediate understanding on these points, he did so in his usual temperate and conciliatory manner; while Merry frankly avowed that he could give no hopes of such propositions being listened to. He did this the more decisively because Congress seemed about to take the matter of impressments into its own hands, and was already debating a Bill for the protection of seamen by measures which tended to hostilities. Madison disavowed responsibility for the legislation, although he defended it in principle.<sup>1</sup> Merry contented himself for the time by saying that if the United States government sought their remedy in municipal law, the matter would immediately cease to be a subject of negotiation.

Thus, in one short month, the two governments were brought to what the British minister supposed to be the verge of rupture. That any government should

<sup>1</sup> Merry to Hawkesbury, Jan. 20, 1804; Jan. 30, 1804; MSS. British Archives.

take so well-considered a position without meaning to support it by acts, was not probable. Acts of some kind, more or less hostile in their nature, were certainly intended by the United States government in case Great Britain should persist in contempt for neutral rights ; the sudden change of tone at Washington left no doubt on this point. Edward Thornton, who had not yet been transferred to another post, wrote in consternation to the Foreign Office, fearing that blame might be attached to his own conduct while in charge of the legation :<sup>1</sup> —

“ When I compare the complexion of Mr. Merry’s correspondence with that of my own, particularly during the course of the last summer, before the intelligence of the Louisiana purchase reached this country, I can scarcely credit the testimony of my own senses in examining the turn which affairs have taken, and the manifest ill-will discovered toward us by the Government at the present moment. . . . I believe that the simple truth of the case is, after all, the circumstance . . . that a real change has taken place in the views of this Government, which may be dated from the first arrival of the intelligence relative to the Louisiana purchase, and which has since derived additional force and acrimony from the opinion that Great Britain cannot resist, under her present pressure, the new claims of the United States, and now, from the necessity they are under of recurring to the influence of France in order to support their demands against Spain. . . . The cession of Louisiana, notwithstanding that the circumstances under which it was made ought to

<sup>1</sup> Thornton to Hammond, Jan. 29, 1804 ; MSS. British Archives.



convince the vainest of men that he was not the sole agent in the transaction, has elevated the President beyond imagination in his own opinion; and I have no doubt that he thinks of securing himself at the next election by having to boast of concessions and advantages derived from us, similar to those he has gained from France, — that is, great in appearance, and at a comparatively insignificant expense.”

From such premises, the conclusion, so far as concerned England, was inevitable; and Thornton agreed with Merry in affirming it without reserve: —

“ Everything, as it relates to this government, now depends on our firmness. If we yield an iota without a real and perfect equivalent (not such imaginary equivalents as Mr. Madison mentions to Mr. Merry), we are lost.”

## CHAPTER XVII.

WHATEVER objects the President and the Secretary of State may have expected to gain by their change of tone in the winter of 1803-1804 toward Spain and England, they must have been strangely free from human passions if they were unconscious of making at least two personal enemies upon whose ill-will they might count. If they were unaware of giving their victims cause for bitterness, — or if, as seemed more probable, they were indifferent to it, — the frequent chances of retaliation which the two ministers enjoyed soon showed that in diplomacy revenge was not only sweet but easy. Even the vehement Spanish hatred felt by Yrujo for Madison fell short of the patient Anglo-Saxon antipathy rooted in the minds of the British minister and his wife. When Yrujo, in March, 1804, burst into the State Department with the Mobile Act in his hand and denounced Madison to his face as party to an "infamous libel," he succeeded in greatly annoying the secretary without violating Jefferson's "canons of etiquette." Under the code of republican manners which the President and his secretary had introduced, they could not fairly object to anything which Yrujo might choose to say

or do. Absolute equality and “the rule of *pêle-mêle*” reached their natural conclusion between such hosts and guests in freedom of language and vehemence of passion. What might have been Merry’s feelings or conduct had he met with more cordiality and courtesy was uncertain; but the mortifications of his first month at Washington embittered his temper, and left distinct marks of acrimony in the diplomacy of America and England, until war wiped out the memory of reciprocal annoyances. The Spaniard’s enmity was already a peril to Madison’s ambition, and one which became more threatening every day; but the Englishman’s steady resentment was perhaps more mischievous, if less noisy. The first effect of Jefferson’s tactics was to ally the British minister with Yrujo; the second bound him to Senator Pickering and Representative Griswold; the third united his fortunes with those of Aaron Burr. Merry entered the path of secret conspiracy; he became the confidant of all the intriguers in Washington, and gave to their intrigues the support of his official influence.

The Federalists worked mischievously to widen the breach between the British minister and the President. They encouraged Merry’s resentment. Late in January, nearly two months after the first *pêle-mêle*, Madison officially informed Merry for the first time that the President meant to recognize no precedence between foreign ministers, but that all, even including secretaries of legation in charge, were to be

treated with perfect equality, or what Madison termed "a complete pell-mell," and would be received, even at their first audience, with no more ceremony than was practised toward any other individual. Merry replied that this notice should have been given to him on his arrival, and that he could not acquiesce in it without instructions. He then wrote to his Government,<sup>1</sup>—

"I have now but too much reason to fear, what I did not at first suspect, that the marked inattention toward me of the present Administration of this country has been a part of their unfriendly disposition toward his Majesty and toward the nation which I have the honor to represent."

At the same moment, in January and February, 1804, Pickering and Griswold were plotting their New England confederacy. Merry was taken by them into the secret, and gave them aid. The Senate, February 9, voted to strike out the fifth article of Rufus King's boundary convention, and to approve the other articles, which provided for fixing the disputed boundary-line of Maine, New Hampshire, and Vermont. Merry wrote to his Government that the object of cancelling the fifth article was to deprive Great Britain of her treaty-right to navigate the Mississippi: <sup>2</sup>—

<sup>1</sup> Merry to Hawkesbury, Jan. 30, 1804; MSS. British Archives.

<sup>2</sup> Merry to Hawkesbury, March 1, 1804: MSS. British Archives.

“It is hardly necessary for me to point out to your Lordship that the other articles of the convention are of great importance to the Eastern States of America, which are much interested in the immediate settlement of the eastern boundary. I am led to believe from the language of some of the members of this State [Massachusetts] that their anxiety on this head is so great that the rejection of those articles by his Majesty would, as having been occasioned by the exclusion on the part of this government of the fifth article, prove to be a great exciting cause to them to go forward rapidly in the steps which they have already commenced toward a separation from the Southern part of the Union. The members of the Senate have availed themselves of the opportunity of their being collected here to hold private meetings on this subject, and I learn from them that their plans and calculations respecting the event have been long seriously resolved. They think that whenever it shall take place it will happen suddenly, yet with quietness and the universal concurrence of the people. Although it does not appear to be their opinion that any external secret agency would accelerate the moment, they naturally look forward to Great Britain for support and assistance whenever the occasion shall arrive.”

As the summer of 1804 came on, Merry's despatches grew more sombre. He reported that at Norfolk twelve British ships were detained at one time in consequence of the desertion of their seamen, several of whom had entered the United States service on the frigates which were under orders for Tripoli. Six British seamen having deserted at Charleston and

re-enlisted in the same way, Merry remonstrated. He was told that the seamen, having voluntarily enlisted in the United States service, could not be restored, because the British government never restored American seamen who had voluntarily enlisted. Merry could only reply that the British government did not knowingly enlist deserters. On the other hand, Madison remonstrated in "high language," "accompanied even with some degree of menace," against the conduct of Captain Bradley of the frigate "Cambrian," one of the British squadron cruising off Sandy Hook, for taking a British seaman out of a British vessel within American jurisdiction. Merry added that in contrast to this strictness toward England the authorities had allowed the officers of the French frigate "La Pour-suivante," at Baltimore, to send armed parties on shore at night for the purpose of seizing French seamen, one of whom they had actually taken by force from a Spanish vessel lying at the wharf.

"From this government having brought into such serious discussion objects which would certainly have passed unnoticed had they occurred in relation to the King's enemies, his Majesty's ministers may be led to suspect that such a resolution has been dictated by some hostile design," wrote Merry, with increasing solemnity; "but it is proper for me to observe that . . . I cannot persuade myself that they will dare to provoke hostilities with his Majesty, at least before Mr. Jefferson's re-election to the Presidency shall have taken place."<sup>1</sup>

<sup>1</sup> Merry to Harrowby, July 18, 1804; MSS. British Archives.



Merry made a representation to Madison on impressments; but his arguments did not satisfy the secretary. "This specimen of Merry shows him to be a mere diplomatic pettifogger," wrote Madison privately to the President.<sup>1</sup>

Merry's temper was in this stage of ever-increasing irritability, when an event occurred which gave him, as it seemed, a chance to gratify his resentments. After the adjournment of Congress in March the British minister heard nothing from Pickering and Griswold. Early in June he wrote home that the democrats were carrying all the elections:<sup>2</sup>—

"In addition to this triumph of the reigning party, there have lately appeared in the prints of this country, which are generally made the instruments of the measures of all parties, publications of the discovery that has been made of secret meetings held at this place by some of the Federal members during the last sitting of Congress for the purpose of consulting upon the important point of the separation of the Eastern from the Southern States, which publications seem to have imposed a complete silence upon the Federal adherents."

A few weeks afterward, July 11, occurred the duel between Burr and Hamilton. Merry had no relations with Hamilton, and felt no peculiar interest in his fate; but he had become intimate with Burr at Washington, and watched his career with the curiosity which

<sup>1</sup> Madison to Jefferson, Aug. 28, 1804; Jefferson MSS.

<sup>2</sup> Merry to Hawkesbury, June 2, 1804; MSS. British Archives.

was the natural result of their common hatred of Jefferson. July 21 Burr fled from New York, and a few days afterward reached Philadelphia, where Merry was passing the summer. While there, Burr sent one of his friends — an Englishman named Williamson — to the British minister with a startling message, which Merry immediately transmitted to his Government:<sup>1</sup> —

“I have just received an offer from Mr. Burr, the actual Vice-President of the United States (which situation he is about to resign), to lend his assistance to his Majesty's government in any manner in which they may think fit to employ him, particularly in endeavoring to effect a separation of the western part of the United States from that which lies between the Atlantic and the mountains, in its whole extent. His proposition on this and other subjects will be fully detailed to your Lordship by Colonel Williamson, who has been the bearer of them to me, and who will embark for England in a few days. It is therefore only necessary for me to add that if after what is generally known of the profligacy of Mr. Burr's character, his Majesty's minister should think proper to listen to his offer, his present situation in this country, where he is now cast off as much by the democratic as by the Federal party, and where he still preserves connections with some people of influence, added to his great ambition and spirit of revenge against the present Administration, may possibly induce him to exert the talents and activity which he possesses with fidelity to his employers.”

<sup>1</sup> Merry to Harrowby, Aug. 6, 1804 ; MSS. British Archives.

Meanwhile a change of ministry occurred in England. Pitt returned to power, representing a state of feeling toward America very different from that which prevailed under the mild rule of Addington. Subordinates were quick to feel such changes in the temper of their superiors. Every British officer knew that henceforth he had behind him an energetic government, which required vigorous action in maintaining what it claimed as British rights. Merry felt the new impulse like the rest; but Pitt's return acted most seriously on the naval service. After the renewal of the war in May, 1803, a small British squadron cruised off Sandy Hook, keeping a sharp look-out for French frigates in New York Harbor, and searching every merchant-vessel for enemy's property. During the summer of 1804 this annoyance became steadily greater, until the port of New York was almost blockaded, and every vessel that sailed out or in was liable not only to be stopped and searched, but to lose some part of its crew by impressment. The British ministry did indeed instantly recall Captain Bradley of the "Cambrian" for violating American jurisdiction, and gave strict orders for the lenient exercise of belligerent rights; but all the more it showed the intention of insisting upon the submission of America to such rules as England should prescribe. The President, already in trouble with Spain, began to feel the double peril; but Congress pressed him forward, and even while busy with the trial of Judge Chase it found time for

two measures which greatly disturbed the British envoy.

The first of these measures was an "Act for the more effectual preservation of peace in the ports and harbors of the United States." Under this law any United States marshal, on the warrant of any United States judge, was bound to board any British or other foreign ship-of-war lying in American waters, and seize every person charged with having violated the peace. If the marshal should be resisted, or if surrender was not made, he must call in the military power, and compel surrender by force of arms. If death should ensue, he should be held blameless; but the resisting party should be punished as for felonious homicide. Further, the President was authorized to interdict at will the ports of the United States to all or any armed vessels of a foreign nation; and to arrest and indict any foreign officer who should come within the jurisdiction after committing on the high seas "any trespass or tort, or any spoliation, on board any vessel of the United States, or any unlawful interruption or vexation of trading-vessels actually coming to or going from the United States."

Such laws were commonly understood in diplomacy as removing the subject in question from the field of negotiation, preliminary to reprisals and war. The Act was passed with little debate in the last hours of the session, in the midst of the confusion which followed the acquittal of Judge Chase.

Merry immediately called on the Secretary of State, and asked him for some assurance that might serve to quiet the apprehensions which his Government would feel on reading the Act.<sup>1</sup> Madison could give none, except that the President would probably not exercise for the present his discretionary powers. As for the words, "any trespass or tort," Madison frankly avowed "he could not but confess they were meant to imply the impressment of any individual whatsoever from on board an American vessel, the exercise of which pretended right on the part of his Majesty's officers was a matter, he said, which the sense of the people at large would never allow the government of this country to acquiesce in."

To this announcement Merry replied in substance that the right was one which would certainly never be abandoned by his Government; and there the matter rested at the close of Jefferson's first term. Madison assured the British minister that the authority granted to the President by Congress over foreign ships of war in American waters would not at present be enforced. He went even a step further toward conciliation. The Legislature of Virginia was induced quietly to modify the Act which had hitherto offered so much encouragement to the desertion of British seamen.<sup>2</sup>

The second threatening measure was a Resolution of the Senate, March 2, 1805, calling upon the Secre-

<sup>1</sup> Merry to Harrowby, March 4, 1805; MSS. British Archives.

<sup>2</sup> Merry to Harrowby, March 29, 1805; MSS. British Archives.

tary of State for such Acts of the British Parliament as imposed heavier duties on the exportation of merchandise to the United States than on similar goods exported to the nations of Europe. Such an export duty upon merchandise for the United States and the West Indies had in fact been imposed by Parliament some two years before; and this Resolution foreshadowed some commercial retaliation by Congress.

While sending to his Government these warnings to expect from Jefferson's second administration a degree of hostility more active than from the first, Merry suggested means of giving the United States occupation that should induce them to leave England alone. A new element of conspiracy disclosed itself to the British minister.

Under the Louisiana treaty of cession, the United States government had promised that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." This pledge had been broken. The usual display of casuistry had been made to prove that the infraction of treaty was no infraction at all; but the more outspoken Republicans avowed, as has been already shown, that the people of Louisiana could not be trusted, or in the commoner phrase that they were unfit for self-government, and must be treated as a



conquered race until they learned to consider themselves American citizens.

The people of New Orleans finding themselves in a position of dependence, which, owing chiefly to their hatred of Governor Claiborne, seemed more irritating than their old Spanish servitude, sent three representatives to Washington to urge upon Congress the duty of executing the treaty. Messieurs Sauvé, Derbigny, and Destréhan accordingly appeared at Washington, and in December, 1804, presented a remonstrance so strong that Government was greatly embarrassed to deal with it.<sup>1</sup> Any reply that should repudiate either the treaty obligation or the principles of American liberty and self-government was out of the question; any reply that should affirm either the one or the other was fatal to the system established by Congress in Louisiana. John Randolph, on whose shoulders the duty fell, made a report on the subject. "It is only under the torture," said he, "that this article of the treaty of Paris can be made to speak the language ascribed to it by the memorialists;" but after explaining in his own way what the article did not mean, he surprised his audience by admitting in effect that the law of the last session was repugnant to the Constitution, and that the people of Louisiana had a right to self-government.<sup>2</sup> Senator Giles said

<sup>1</sup> Remonstrance of the People of Louisiana, Dec. 31, 1804; Annals of Congress, 1804-1805, Appendix, p. 1597.

<sup>2</sup> Report of Committee, Jan. 25, 1805; Annals of Congress, 1804-1805, p. 1014.

in private that Randolph's report was "a perfect transcript of Randolph's own character; it began by setting the claims of the Louisianians at defiance, and concluded with a proposal to give them more than they asked."<sup>1</sup>

Under these influences the three delegates from the creole society succeeded in getting, not what they asked, but a general admission that the people of Louisiana had political rights, which Congress recognized by an Act, approved March 2, 1805, to the extent of allowing them to elect a General Assembly of twenty-five representatives, and of promising them admission into the Union whenever their free inhabitants should reach the number of sixty thousand. Considering that the people of Louisiana were supposed to be entitled to "*all* the rights, advantages, and immunities of citizens," Messieurs Sauv , Derbigny, and Destr han thought the concession too small, and expressed themselves strongly on the subject. Naturally the British minister, as well as other ill-affected persons at Washington, listened eagerly to the discontent which promised to breed hostility to the Union.

"The deputies above mentioned," wrote Merry to his Government,<sup>2</sup> "who while they had any hopes of obtaining the redress of their grievances had carefully avoided giving any umbrage or jealousy to the Government by visiting or holding any intercourse with the

<sup>1</sup> Diary of J. Q. Adams (Feb. 1, 1805), i. 342.

<sup>2</sup> Merry to Harrowby, (No. 14), March 29, 1805; MSS. British Archives.

agents of foreign Powers at this place, when they found that their fate was decided, although the law had not as yet passed, no longer abstained from communicating with those agents, nor from expressing very publicly the great dissatisfaction which the law would occasion among their constituents, — going even so far as to say that it would not be tolerated, and that they would be obliged to seek redress from some other quarter; while they observed that the opportunity they had had of obtaining a correct knowledge of the state of things in this country, and of witnessing the proceedings of Congress, afforded them no confidence in the stability of the Union, and furnished them with such strong motives to be dissatisfied with the form and mode of government as to make them regret extremely the connection which they had been forced into with it. These sentiments they continued to express till the moment of their departure from hence, which took place the day after the close of the session.”

Another man watched the attitude of the three delegates with extreme interest. Aaron Burr, March 4, 1805, ceased to hold the office of Vice-president. Since the previous August he had awaited the report of his friend Colonel Williamson, who entered into conferences with members of the British ministry, hoping to gain their support for Burr's plan of creating a Western Confederacy in the Valley of the Ohio. No sooner was Burr out of office than he went to Merry with new communications, which Merry hastened to send to his Government in a despatch marked “Most secret” in triplicate.<sup>1</sup>

<sup>1</sup> Merry to Harrowby, (No. 15), most secret, March 29, 1805.

“Mr. Burr (with whom I know that the deputies became very intimate during their residence here) has mentioned to me that the inhabitants of Louisiana seem determined to render themselves independent of the United States, and that the execution of their design is only delayed by the difficulty of obtaining previously an assurance of protection and assistance from some foreign Power, and of concerting and connecting their independence with that of the inhabitants of the western parts of the United States, who must always have a command over them by the rivers which communicate with the Mississippi. It is clear that Mr. Burr (although he has not as yet confided to me the exact nature and extent of his plan) means to endeavor to be the instrument of effecting such a connection.”

For this purpose Burr asked the aid of the British government, and defined the nature of the assistance he should need, — a British squadron at the mouth of the Mississippi, and a loan of half a million dollars.

“I have only to add that if a strict confidence could be placed in him, he certainly possesses, perhaps in a much greater degree than any other individual in this country, all the talents, energy, intrepidity, and firmness which are required for such an enterprise.”

Pending an answer to this proposal, Burr was to visit New Orleans and make himself the head of creole disaffection.

Merry was launched into the full tide of conspiracy. At the close of Jefferson's first term he saw reason to hope that he might soon repay with interest the debt of personal and political annoyance which he owed.

While Yrujo was actively engaged in bringing upon Madison the anger of Spain and France, Merry endeavored to draw his Government into a system of open and secret reprisals upon the President.

That the new French minister was little better disposed than Merry and Yrujo has been already shown; but his causes for ill-will were of a different and less personal nature. Before Turreau's arrival at Washington in November, 1804, Pichon in one of his last despatches declared that Jefferson had already alienated every foreign Power whose enmity could be dangerous to the United States.

“The state of foreign relations offers a perspective which must put Mr. Jefferson's character to proof,” Pichon wrote to Talleyrand in September, 1804.<sup>1</sup> “The United States find themselves compromised and at odds with France, England, and Spain at the same time. This state of things is in great part due to the indecision of the President, and to the policy which leads him to sacrifice everything for the sake of his popularity.”

The complaint was common to all French ministers in the United States, and meant little more than that all Presidents and policies displeased them by stopping short of war on England, which was the object of French diplomacy; but this letter also showed that in Pichon's eyes the President had no friends. When Turreau arrived, a few weeks afterward, he quickly intimated that the President need expect from him

<sup>1</sup> Pichon to Talleyrand, 16 Fructidor, An xii. (Sept. 3, 1804); Archives des Aff. Étr., MSS.

not even such sentimental sympathy as had been so kindly given by Pichon.

At the same moment it was noticed that Jefferson changed his style of dress. "He has improved much in the article of dress," wrote Senator Plumer in December, 1804 ;<sup>1</sup> "he has laid aside the old slippers, red waistcoat, and soiled corduroy small-clothes, and was dressed all in black, with clean linen and powdered hair." Apparently the President had profited by the criticisms of the British minister, and was willing to avoid similar comments from the new French envoy ; but he supposed that the Frenchman would show equal civility, and assume an equally republican style. He was mistaken. November 23, undisturbed by Merry's experience, Turreau presented himself at his first audience in full regimentals, and with so much gold lace that Jefferson was half inclined to resent it as an impertinence.<sup>2</sup> Turreau next refused to meet Merry at dinner. He followed up these demonstrations by embracing the cause of Yrujo, and ridiculing Madison to his face. He began by warning his Government that "these people have been thoroughly spoiled ; it is time to put them back into their place."<sup>3</sup>

Turreau became intimate with the deputies from Louisiana, and notified Talleyrand that a separation of

<sup>1</sup> Life of Plumer, p. 326.

<sup>2</sup> Diary of J. Q. Adams (Nov. 23, 1804), i. 316.

<sup>3</sup> Turreau to Talleyrand, 27 Janvier, 1805 ; Archives des Aff. Étr., MSS.



the western country from the Union was universally expected. Already, within three months of his arrival, he put his finger on the men who were to accomplish it.<sup>1</sup> Destréhan, he said, was a man of high merit; "but being only moderately ambitious, and head of a numerous family, — having acquired, too, a great personal esteem, — he is not likely to become the principal mover in innovations which are always dangerous without a combination of evidently favorable chances. It is still less likely that he will ever be the instrument of strangers who should seek to excite troubles for their personal advantage." As for Sauvé, much inferior to his colleague in abilities, he would be guided by Destréhan's influence. Derbigny was different. "Young still, with wit, ready expression, and French manners, I believe him to be greedy of fortune and fame; I suspect that every *rôle* will suit him, in order to acquire the one or the other; but there are men of more importance whom circumstances are taking to Louisiana."

Then Turreau, for the information of Talleyrand, drew a portrait of the military commander of Upper Louisiana, who had his headquarters at St. Louis, and whose influence on future events was to be watched.

"General Wilkinson is forty-eight years of age. He has an amiable exterior. Though said to be well-informed in civil and political matters, his military capacity is small. Ambitious and easily dazzled, fond of show and

<sup>1</sup> Turreau to Talleyrand, 9 Mars, 1805; Archives des Aff. Étr., MSS.

appearances, he complains rather indiscreetly, and especially after dinner, of the form of his government, which leaves officers few chances of fortune, advancement, and glory, and which does not pay its military chiefs enough to support a proper style. He listened with pleasure, or rather with enthusiasm, to the details which I gave him in regard to the organization, the dress, and the force of the French army. My uniform, the order with which I am decorated, are objects of envy to him; and he seems to hold to the American service only because he can do no better. General Wilkinson is the most intimate friend, or rather the most devoted creature, of Colonel Burr."

Talleyrand had become acquainted with Burr in the United States, and needed no warnings against him; but Turreau showed himself well-informed:

"Mr. Burr's career is generally looked upon as finished; but he is far from sharing that opinion, and I believe he would rather sacrifice the interests of his country than renounce celebrity and fortune. Although Louisiana is still only a Territory, it has obtained the right of sending a delegate to Congress. Louisiana is therefore to become the theatre of Mr. Burr's new intrigues; he is going there under the ægis of General Wilkinson."

Perhaps Turreau received this information from Derbigny, which might account for his estimate of the young man. Certainly Derbigny knew all that Turreau reported, for in an affidavit<sup>1</sup> two years afterward he admitted his knowledge.

<sup>1</sup> Affidavit of Peter Derbigny, Aug. 27, 1807. Clark's Proofs against Wilkinson; Note 18. App. p. 38.

“In the winter of 1804–1805,” Derbigny made oath, “being then at Washington City in the capacity of a deputy from the inhabitants of Louisiana to Congress, jointly with Messrs. Destréhan and Sauv  , he was introduced to Colonel Burr, then Vice-president of the United States, by General Wilkinson, who strongly recommended to this deponent, and as he believes to his colleagues, to cultivate the acquaintance of Colonel Burr, — whom he used to call ‘the first gentleman in America,’ telling them that he was a man of the most eminent talents both as a politician and as a military character; and . . . General Wilkinson told him several times that Colonel Burr, so soon as his Vice-presidency would be at an end, would go to Louisiana, where he had certain projects, adding that he was such a man as to succeed in anything he would undertake, and inviting this deponent to give him all the information in his power respecting that country; which mysterious hints appeared to this deponent very extraordinary, though he could not then understand them.”

What Derbigny in 1807 professed not to have understood, seemed in 1804 clear to Turreau and Merry as well as to others. Turreau closed his catalogue by the significant remark: “I am not the only person who thinks that the assemblage of such men in a country already discontented is enough to give rise to serious troubles there.” The treasonable plans of Burr and Wilkinson were a matter of common notoriety, and roused anxious comment even in the mind of John Randolph, who was nursing at home the mortification of Judge Chase’s

acquittal.<sup>1</sup> Randolph complained of "the easy credulity of Mr. Jefferson's temper," which made the President a fit material for intriguers to work upon. Certainly at the close of his first administration Jefferson seemed surrounded by enemies. The New England Federalists, the Louisiana creoles, Burr and his crew of adventurers in every part of the Union, joined hands with the ministers of England and Spain to make a hostile circle round the President; while the minister of France looked on without a wish to save the government whose friendship Bonaparte had sought to obtain at the cost of the most valuable province and the most splendid traditions of the French people.

<sup>1</sup> Adams's Randolph, p. 157.

## CHAPTER XVIII.

AFTER aiding to negotiate the Louisiana treaty at Paris, in April and May, 1803, Monroe, as the story has already told, being forbidden by Bonaparte to pursue his journey to Madrid, followed his alternative instructions, to take the post which Rufus King was vacating in London. King left England in the middle of May, 1803; Monroe arrived in London July 18, when the war between England and France was already two months old.

The mild Addington ministry was still in power, and nothing had yet happened to excite Monroe's alarm in regard to British policy in the United States. On the contrary, the ministry aided the Louisiana purchase with readiness that might reasonably have surprised an American minister, while the friendliest spirit was shown by Lord Hawkesbury in all matters of detail. Except the standing dispute about impressments, every old point of collision had been successfully removed by King, whose two conventions, — the one for discharging British debts recognized by treaty, the other for settling the boundaries of New England and of the northwest territory, — seemed to free the countries for the first time from the annoying inheri-

tance of disputes entailed by the definitive treaty which closed the Revolutionary War in 1783. The calm which seemed to prevail throughout England in regard to her relations with America contrasted sharply with the excitement shown by the English people in all their allusions to the Corsican demon, as they thought him, whose regiments, gathering at Boulogne, they might expect to see at any moment encamped at Hastings, where no hostile camp-fire had burned since the night, seven hundred years before, when the body of an English king, hedged about with the dead bodies of a whole English aristocracy, lay stiff and stark on the bloody hillside, victims of another French adventurer. England was intent on her own imminent dangers; and under the strain which the renewal of her painful efforts brought with it, she was glad to leave America alone.

Yet calm as the atmosphere appeared to be, signs of future storm were not wholly wanting. Had Monroe been naturally anxious, he might, without seeking far, have found cause for anxiety serious enough to take away all appetite for Spanish travel, and to hold him close to his post until some one should consent to relieve him from an ungrateful and unpromising duty. The American minister at London in 1804 could hope to gain nothing either for his country or for himself, and he stood always on the verge of disaster; but when he was required to take a "high tone" in the face of a nation almost insane with anxiety, he challenged more chances of mortifi-



cation than any but a desperate politician would have cared to risk.

Monroe had at first nothing to do but to watch the course of public opinion in England. During the autumn of 1803, while President Jefferson and Secretary Madison at Washington received Merry with a changed policy, and all through the winter, while Washington was torn by "canons of etiquette" and by contests of strength between Jefferson, Madison, Casa Yrujo, and Merry, the United States minister in London was left at peace to study the political problems which bore on his own fortunes and on those of his friends at home, as well as on the interests of the Union.

Beneath the calm of general society mutterings of discontent from powerful interests could be heard, — occasional outbursts of jealousy, revivals of old and virulent passions, inveterate prejudices, which made as yet but little noise in the Press or in Parliament, but which rankled in the breasts of individuals. One of the earlier symptoms of trouble came in a familiar shape. For twenty years, whenever a question had arisen of hostility to American trade or of prejudice against American character, the first of Englishmen to stimulate it, and the loudest to proclaim the dangers of Great Britain, had been John Baker Holroyd, Earl of Sheffield, whose memory might have been lost under the weight of his pamphlets had it not been embalmed in the autobiography of Gibbon. Lord Sheffield felt such devotion to the

British navigation laws as could be likened only to the idolatry which a savage felt toward his fetich; one might almost have supposed that to him the State, the Church, and the liberties of England, the privileges of her nobility, and even the person of her sovereign, were sacred chiefly because they guaranteed the safety of her maritime system. This fanaticism of an honest mind led to results so extravagant as to become at times ridiculous. The existence of the United States was a protest against Lord Sheffield's political religion; and therefore in his eyes the United States were no better than a nation of criminals, capable of betraying their God for pieces of silver. The independence of America had shattered the navigation system of England into fragments; but Lord Sheffield clung the more desperately to his broken idol. Among the portions which had been saved were the West Indian colonies. If at that day the navigation laws had one object more important than another, it was to foster the prosperity of these islands, in order that their sugar and molasses, coffee and rum, might give freight to British shippers and employment to British seamen; but to Lord Sheffield the islands were only a degree less obnoxious than the revolted United States, for they were American at heart, complaining because they were forbidden to trade freely with New York and Boston, and even asserting that when the navigation laws were strictly enforced their slaves died of starvation and disease. Lord Sheffield seriously thought them ungrateful to

murmur, and held it their duty to perish in silence rather than ask a relaxation of the law.

The rupture of the Peace of Amiens, in May, 1803, set Lord Sheffield again at work; and unfortunately the material lay ready to his hand. The whole subject of his discourse related to a single fact; but this fact was full of alarm to the English people. The extraordinary decrease of British tonnage in the American trade, the corresponding increase of American shipping, and the loud exultation of the Yankees over the British shipmasters were proofs of the danger which menaced England, whose existence depended on maritime strength. In the month of February, 1804, Lord Sheffield published a pamphlet,<sup>1</sup> which dwelt on these calamities as due to the wanton relaxation of the navigation laws and the senseless clamor of the colonies. He was answered in a pamphlet<sup>2</sup> written by one of the colonial agents; and the answer was convincing, so far as Lord Sheffield's argument was concerned, but his array of statistics remained to disturb the British mind.

Monroe might therefore count on having, some day, to meet whatever mischief the shipping interest of Great Britain could cause. No argument was needed to prove that the navy would support with zeal whatever demands should be made by the mercantile

<sup>1</sup> *Strictures, etc., on the Navigation and Colonial System of Great Britain.* London, 1804.

<sup>2</sup> *Claims of the British West Indian Colonists.* By G. W. Jordan. London, 1804.

marine. There remained the immense influence of the West Indian colonies to consider; and if this should be brought into active sympathy with the ship-owners and the royal marine against American trade, no minister in England — not even Pitt himself at the height of his power — would be strong enough to resist the combination.

The staple product of the West Indian islands was sugar, and owing to several causes the profits of the planters had until 1798 been large. The insurrection of the Haytian negroes in 1792 annihilated for the time the supply of sugar from St. Domingo; prices rose in consequence, and a great increase in the number of sugar plantations naturally followed. Several of the Dutch and French islands fell into the hands of England, and adventurers flocked to them, eager to invest British capital in new sugar-fields. Under this impulse the supply again increased. Cuba, Porto Rico, Guadeloupe, and at last St. Domingo itself under Toussaint's rule poured sugar into the market. American ships carried French and Spanish sugar to Europe until it became a drug. The high price lasted till 1798; in that year Pitt even imposed a heavy additional duty upon it as a sure source of revenue. In 1799 the effect of over-production first became apparent. During the next few years the price of sugar fell, until great suffering began to prevail in the islands, and the planters wrote piteous letters of distress to England. Their agents wrote back that the English market was flooded with

colonial produce: "Send no more sugar home; give it away rather!" was their advice, — and the colonists, without the means of purchasing even the necessities of life, supplicated government to let them send their sugar to the United States, to be exchanged for American produce.<sup>1</sup>

This the government dared not do, for the shipping interest must in such a case be sacrificed. Debarred from this outlet for their produce, the colonists looked about them for some other resource; and since they were not allowed to act independently of the ship-masters, they saw no other course than to join hands with the shipping interest, and to invoke the aid of the navigation laws. The glut of the European market was caused by American neutrals, who were allowed to carry French and Spanish sugars from the West Indies to Europe. If this neutral trade could be stopped, the supply of French and Spanish sugar would be left to rot in Cuba and Guadeloupe, while British colonial produce would enjoy a monopoly throughout Europe.

Even before the Peace of Amiens this policy gained many adherents, and the Peace tended to strengthen their influence. The Addington ministry was not only weak in character, but timid in policy; and by a natural reaction it threw restless and ambitious younger statesmen into an attitude of protest. A new departure was felt to be necessary; and the nervous energy of England, strained almost to in-

<sup>1</sup> Lowe's Enquiry, 4th edition, 1808.

sanity by the anxieties of ten years' desperate danger, exhausted itself in the cry for one great commanding spirit, who should meet Bonaparte with his own weapons on his own field.

This cry produced George Canning. Of him and his qualities much will be said hereafter, when his rise to power shall have made him a more prominent figure; here need be noticed only the forces which sought assertion through him, and the nature of the passions which he was peculiarly qualified to express. At all times nations have been most imperilled by the violence of disappointed or terrified interests; but the danger was never so great as when these interests joined to a greed for selfish gain the cry for an unscrupulous chief. Every American schoolboy once knew by heart the famous outburst of Canning, which began, "Away with the cant of 'measures, not men'!" but of the millions of persons who read or heard this favorite extract few understood its meaning to American interests and feelings. This celebrated speech, made Dec. 8, 1802, at a time when Addington's cautious ministry still held office, was intended to dwarf Addington and elevate Pitt,—to ridicule caution and extol violence. "Sir," cried Canning, "to meet, to check, to resist, to stand up against Bonaparte, we want arms of the same kind. I vote for the large military establishments with all my heart; but for the purpose of coping with Bonaparte, one great, commanding spirit is worth them all."



“Arms of the same kind” were, speaking generally, irresponsible violence and disregard of morality. The great, commanding spirit of the moment was Mr. Pitt; but between the lines of this speech, by the light of its author’s whole career, the secret was easily read that in his opinion the man of the future who could best meet Bonaparte on his own ground with his own weapons was not William Pitt, but George Canning.

After many months of warfare against Addington, Canning was gratified. In May, 1804, Addington retired from office, carrying into the House of Lords the new title of Lord Sidmouth, while Pitt returned to power. No one of note returned with him. His old colleague, Lord Grenville, refused to join his Administration, and Charles James Fox was personally excluded by King George. To fill the Foreign Office Pitt could find no better man than Lord Harrowby, — a personage of very second-rate importance in politics. With a Cabinet so weak as to command little respect, and reactionary as was required to suit the King’s growing prejudices, Pitt was obliged to disguise his feebleness by the vigor of his measures. While creating, by expenditure of money, a new coalition against Napoleon, he was unable to disregard the great moneyed and social interests which were clamoring for a spirited policy against neutrals and especially against America. In private he avowed his determination to re-establish the old system, and his regret that he should ever have been,

most reluctantly, induced to relax the maritime rights of Britain.<sup>1</sup>

That Monroe should have been the last person in London to know the secret thoughts of Pitt was not surprising. The Board of Trade commonly exerted more influence than the Foreign Office over the relations of England with the United States; and George Rose, Vice-President of the Board of Trade, Pitt's devoted friend and a Tory after Lord Sheffield's heart, would never have chosen Monroe as a confidant of schemes under discussion in his department. Lord Harrowby was but the mouthpiece of other men. From him Monroe could expect to hear only what had already been decided. Nevertheless a little study of the mercantile interests of the city, and a careful inquiry into the private opinions of men like Rose and Canning, might have thrown some light on the future, and would naturally have roused anxiety in the mind of Monroe.

Pitt's return to power, with the intention of changing the American policy which had been pursued since the negotiation of Jay's treaty, happened very nearly to coincide with the arrival at the Foreign Office of Merry's most alarming despatches, announcing that Madison required the total abandonment of impressments, the restriction of blockades and the

<sup>1</sup> *Anti-Jacobin Review*, August, 1807, p. 368; *Introduction to Reports, etc., on Navigation*, p. 22; *Atcheson's American Encroachments*, London, 1808, p. lxxvii; *Baring's Inquiry*, London, 1808, p. 73

right of search, and complete freedom in the colonial trade, as the conditions on which the friendship of the United States could be preserved. The announcement of President Jefferson's high tone was accompanied by the British minister's account of his own social mortifications by the President and the Secretary of State ; of the Senate's refusal to approve the fifth article of Rufus King's boundary convention, in order to attack the British right of navigating the Mississippi ; and by drafts of bills pending in Congress, under which any British admiral, even though it were Nelson himself, who should ever have taken a seaman out of an American vessel, was to be arrested in the streets of the first American port where he might go ashore, and to suffer indefinite imprisonment among thieves and felons in the calaboose.

May 30, 1804, Monroe had his first interview with Lord Harrowby. In such cases the new secretary, about to receive a foreign minister, commonly sent for the late correspondence, in order to learn something about the subjects on which he was to have an opinion. Beyond a doubt Lord Harrowby had on his table the despatches of Merry, written between November and April, which he probably finished reading at about the moment when Monroe was announced at the door.

Under such circumstances, Monroe reported to his Government that Lord Harrowby's manners were designedly unfriendly ; his reception was rough, his comments on the Senate's habit of mutilating treaties

were harsh, his conduct throughout the interview was calculated to wound and to irritate.<sup>1</sup> After this unpromising experience, two months were allowed to pass without further demonstration on either side. Then Lord Harrowby called Monroe's attention to the twelfth article of Jay's treaty, which regulated the commercial relations between the British West Indies and the United States, and which had expired by limitation. He suggested its renewal, according to its old terms, until two years after the next general peace. To this offer Monroe replied, with the utmost frankness, "that the President wished to postpone this matter until he could include impressment and neutral rights in the treaty; that we must begin *de novo*; that America was a young and thriving country; that in 1794 she had had little experience, since then she understood her interests better; and that a new treaty should omit certain things from that of 1794, and include others. The most urgent part was that which respected our seamen."<sup>2</sup>

An approaching contact of opposite forces always interests men's imagination. On one side, Pitt and Lord Harrowby stood meditating the details of measures, which they had decided in principle, for taking from the United States most of the commercial advantages hitherto enjoyed by them; on the other side stood Monroe and Jefferson, equally confident, telling the Englishmen that very much greater advantages

<sup>1</sup> Monroe to Madison, June 3, 1804; State Papers, iii. 92.

<sup>2</sup> Monroe to Madison, Aug. 7, 1804; State Papers, iii. 94.

must be conceded. That one or the other of these forces must very soon give way was evident; and if ever an American minister in London needed to be on the alert, with every faculty strained to its utmost, the autumn of 1804 was such a moment. Monroe, aware of his danger, gave full warning to the President. Even as early as June 3, after his first interview with Lord Harrowby, he wrote that a change of policy was imminent. "My most earnest advice is to look to the possibility of such a change."<sup>1</sup>

Lord Harrowby also gave every reasonable warning. His reply to Monroe's demands for further negotiation was simple, — nothing need be expected from him. He refused to do any business at all, on the plea of other occupations incident to the formation of a new ministry.<sup>2</sup> Monroe sent him the draft of the comprehensive treaty which Madison had forwarded, but Lord Harrowby declined for the present to discuss it. Then Monroe came to the conclusion that his presence in London was no longer necessary; and accordingly, Oct. 8, 1804, he started for Paris and Madrid. Until July 23, 1805, the legation at London was left in charge of a secretary.

A month after his departure, Lord Harrowby wrote a letter of instructions<sup>3</sup> to Merry in reply to the series of despatches received from Washington.

<sup>1</sup> Monroe to Madison, June 3, 1804; State Papers, iii. 92.

<sup>2</sup> Monroe to Madison, Sept. 8, 1804; MSS. State Department Archives.

<sup>3</sup> Harrowby to Merry, Nov. 7, 1804; MSS. British Archives.

“His Majesty’s government,” he said, “have perceived with considerable concern, from some of your most recent despatches, the increasing acrimony which appears to pervade the representations that have been made to you by the American Secretary of State on the subject of the impressment of seamen from on board of American ships. The pretension advanced by Mr. Madison that the American flag should protect every individual sailing under it on board of a merchant-ship is too extravagant to require any serious refutation. In the exercise of the right, which has been asserted by his Majesty and his predecessors for ages, of reclaiming from a foreign service the subjects of Great Britain, whether they are found on the high seas or in the ports of his own dominions, irregularities must undoubtedly frequently occur; but the utmost solicitude has been uniformly manifested by his Majesty’s government to prevent them as far as may be possible, and to repress them whenever they have actually taken place.”

Intending to pursue the same course in the future, the Government would without delay give the strictest orders to its naval officers “to observe the utmost lenity in visiting ships on the high seas, and to abstain from impressments in the ports of the United States.”

In regard to commercial questions, Lord Harrowby offered to consider the treaty of 1794 as in force until some new arrangement could be formed. Until the decision of the President should be known, it was “intended to propose to Parliament to lodge the power of regulating the commerce with America in the King in Council, in the same manner as before the treaty



of 1794." The offer of considering the treaty as in force "must be regarded as a boon to America; and it was made merely under the persuasion that if accepted it would be accepted with a view to maintain a friendly relation between the two countries, and to avoid in the interval everything which could lead to interrupt it. If this system is followed in America, it will be followed here in every respect with an anxious desire for the continuance of harmony and cordiality."

The same conditional and semi-threatening disposition toward good-will ran through the rest of these instructions. In regard to the boundary convention, his Majesty's government would at all times be ready to reopen the whole subject; "but they can never acquiesce in the precedent which in this as well as in a former instance the American government has endeavored to establish, of agreeing to ratify such parts of a convention as they may select, and of rejecting other stipulations of it, formally agreed upon by a minister invested with full powers for the purpose."

Finally, Merry was to "avoid, as far as possible, any language which might be conceived to be of a menacing or hostile tendency, or which might be construed into an indication of a desire on the part of his Majesty's government to decline any discussion of the several points now pending between the two countries." Lord Harrowby clearly wished to encourage discussion to the utmost. He left the

“canons of etiquette” unnoticed, and offered not even a hint at any change of policy meditated by his Government.

So matters remained in England during the last months of President Jefferson’s first term. On both sides new movements were intended ; but while those of the United States government were foreseen and announced in advance by Merry, those of the British ministry were hidden under a veil of secrecy, which might perhaps have been no more penetrable to Monroe had he remained in London to watch them than they were to him in his retreat at Aranjuez.

To the world at large nothing in the relations of the United States with England, France, or Spain seemed alarming. The world knew little of what was taking place. Only men who stood between these forces could understand their movements and predict the moment of collision ; but if these men, like Merry, Turreau, and Yrujo, had been asked March 3, 1805, to point out the brightest part of Jefferson’s political horizon, they would probably have agreed with one voice that everything in Europe threatened disaster, and that the only glimpse of blue sky was to be seen on the shores of Africa. The greatest triumph to be then hoped from Jefferson’s peace policy was the brilliant close of his only war.

During the year 1804 the little American fleet in the Mediterranean made famous some names which within ten years were to become more famous still.

With the "Constitution," the only heavy frigate on the station after the loss of the "Philadelphia," and with half-a-dozen small brigs and schooners, Preble worked manfully at his task of annoying the Pacha of Tripoli. Three years' experience showed that a mere blockade answered no other purpose than to protect in part American commerce. It had not shaken the Pacha in the demand of black-mail as his condition of peace. Bainbridge, still held a prisoner in the town, believed that Jefferson must choose between paying what the Pacha asked, or sending eight or ten thousand men to attack him in his castle. Black-mail was the life of the small pirate rulers, and they could not abandon it without making a precedent fatal to themselves, and inviting insurrection from their subjects. Preble could only strike the coast with fear; and during the summer of 1804 he began a series of dashing assaults with the "Constitution," helped by four new craft,—the "Argus" and "Syren," fine sixteen-gun brigs; the "Nautilus" and "Vixen," fourteen-gun schooners; the "Enterprise," of twelve guns, and a captured Tripolitan brig of sixteen guns, re-named the "Scourge,"—all supported by eight small gunboats borrowed from the King of Naples who was also at war with Tripoli. Thus commanding a force of about one hundred and fifty guns, and more than a thousand men, August 3, carrying his flag-ship into the harbor, Preble engaged the Tripolitan batteries at very short range for two hours. Fortunately, the Mussulmans could not or did not depress their guns

enough to injure the frigate, and after throwing many broadsides into the batteries and town, Preble retired without losing a man. His gunboat flotilla was equally daring, but not so lucky. One division was commanded by Lieutenant Somers, the other by Stephen Decatur. They attacked the Tripolitan gunboats and captured three, besides sinking more; but James Decatur was killed. A few days afterward, August 7, the attack was repeated, and some five hundred 24-lb. shot were thrown into the batteries and town. August 24 a third bombardment took place within the month; and although Preble knew that Barron was near at hand with a strong reinforcement, August 29 he carried his flotilla a fourth time into the harbor, and again threw several hundred solid shot into the town. A fifth bombardment, the heaviest of all, took place early in September. In these affairs, so poor was the Tripolitan gunnery or courage that the Americans suffered almost no loss beyond that of a few spars. The only serious disaster, besides the death of James Decatur, was never explained. Preble, wishing to try the effect of a fire-ship, on the night of September 4 sent one of his best officers, Lieutenant Somers, into the harbor with the ketch "Intrepid" filled with powder, bombs, and shell. The "Argus," "Vixen," and "Nautilus" escorted Somers to shoal water, and waited for him to rejoin them in his boats. They saw the batteries fire upon him; then they heard a sudden and premature explosion. All night the three cruisers waited anxiously

outside, but Somers never returned. He and his men vanished; no vestige or tidings of them could ever be found.

Considering Preble's narrow means, the economy of the Department, and the condition of his small vessels, nothing in American naval history was more creditable than the vigor of his blockade in the summer of 1804; but he could not confidently assert that any number of such attacks would force the Pacha to make peace. A week after the loss of Somers in the "Intrepid" Commodore Samuel Barron arrived, bringing with him nearly the whole available navy of the United States, and relieved Preble from the command. Preble returned home, and was rewarded for his services by a gold medal from Congress. Two years afterward he died of consumption.

Barron had with him such a force as the United States never before or since sent in hostile array across the ocean,—two forty-fours, the "Constitution" and the "President;" two thirty-eight gun frigates, the "Constellation" and the "Congress;" the "Essex," of thirty-two guns; the new brigs, "Hornet" of eighteen, and the "Syren" and "Argus" of sixteen; the twelve-gun schooners "Vixen," "Nautilus," and "Enterprise;" ten new, well-built American gunboats; and two bomb-vessels. With the exception of the frigates "Chesapeake" and "United States," hardly a sea-going vessel was left at home. Commanded by young officers like John Rodgers and Stephen Decatur, Chauncey, Stewart, and Isaac Hull.

such a squadron reflected credit on Robert Smith's administration of the navy.

Nevertheless the Pacha did not yield, and Barron was obliged by the season to abandon hope of making his strength immediately felt. Six months later the commodore, owing to ill-health, yielded the command to John Rodgers, while the Pacha was still uninjured by the squadron. As the summer of 1805 approached, fear of Rodgers's impending attack possibly helped to turn the Pacha's mind toward concession; but his pacific temper was also much affected by events on land, in which appeared so striking a combination of qualities,—enterprise and daring so romantic and even Quixotic that for at least half a century every boy in America listened to the story with the same delight with which he read the *Arabian Nights*.

A Connecticut Yankee, William Eaton, was the hero of the adventure. Born in 1764, Eaton had led a checkered career. At nineteen he was a sergeant in the Revolutionary army. After the peace he persisted, against harassing difficulties, in obtaining what was then thought a classical education; in his twenty-seventh year he took a degree at Dartmouth. He next opened a school in Windsor, Vermont, and was chosen clerk to the Vermont legislature. Senator Bradley, in 1792, procured for him a captain's commission in the United States army. His career in the service was varied by insubordination, disobedience to orders, charges, counter-charges, a court-martial, and a sen-



tence of suspension not confirmed by the Secretary of War. In 1797 he was sent as consul to Tunis, where he remained until the outbreak of the war with Tripoli in 1801. Tunis was the nearest neighbor to Tripoli, about four hundred miles away; and the consul held a position of much delicacy and importance. In the year 1801 an elder brother of the reigning Pacha of Tripoli resided in Tunis, and to him Eaton turned in the hope of using his services. This man, Hamet Caramelli, the rightful Pacha of Tripoli, had been driven into exile some eight or nine years before by a rebellion which placed his younger brother Yusuf on the throne. Eaton conceived the idea of restoring Hamet, and by this act of strength impressing all the Mahometan Powers with terror of the United States. In pursuit of this plan he spent more than twenty thousand dollars, embroiled himself with the Bey of Tunis, quarrelled with the naval commanders, and in 1803 returned to America to lay his case before the President and Congress.

Although no one could be surprised that the President and his Cabinet hesitated to put themselves without reserve in the hands of an adventurer, Eaton's anger was extreme at finding the Government earnest for peace rather than war. Himself a Connecticut Federalist, a close friend of Timothy Pickering, he expressed his feelings in his private letters with the bitterness as well as with the humor of his class.<sup>1</sup>

<sup>1</sup> Life of General William Eaton, Brookfield, 1813, p. 262.

“ I waited on the President and the Attorney-General. One of them was civil, and the other grave. . . . I endeavored to enforce conviction on the mind of Mr. Lincoln of the necessity of meeting the aggressions of Barbary by retaliation. He waived the subject, and amused me with predictions of a political millennium which was about to happen in the United States. The millennium was to usher in upon us as the irresistible consequence of the goodness of heart, integrity of mind, and correctness of disposition of Mr. Jefferson. All nations, even pirates and savages, were to be moved by the influence of his persuasive virtue and masterly skill in diplomacy.”

Eaton's interviews probably took place at the moment when the Louisiana treaty confirmed the Cabinet in its peace policy and in reliance on diplomacy. In March, 1804, Eaton succeeded in returning to the Mediterranean as naval agent, but without special powers for the purpose he had in mind.

“ The President becomes reserved ; the Secretary of War ‘ believes we had better pay tribute,’ — he said this to me in his own office. Gallatin, like a cowardly Jew, shrinks behind the counter. Mr. Madison ‘ leaves everything to the Secretary of the Navy Department.’ And I am ordered on the expedition by Secretary Smith, — who, by the by, is as much of a gentleman and a soldier as his relation with the Administration will suffer, — without any special instructions to regulate my conduct.”

With no other authority to act as a military officer than a vague recommendation from the President as a man who was likely to be extremely useful to Barron, Eaton returned with Barron's large squadron.

He felt himself ill-treated, for he was irritable and self-asserting by nature, and was haunted by a fixed idea too unreasonable for the President to adopt; but he chose to act without authority rather than not act at all, for he was born an adventurer, and difficulties which seemed to cooler heads insurmountable were nothing in his eyes. Sept. 5, 1804, he arrived at Malta, and thence sailed to Alexandria; for in the meanwhile Hamet had been driven to take refuge in Egypt, and Eaton on reaching Cairo, Dec. 8, 1804, found that the object of his search was shut up in Minyeh on the Nile with some rebellious Mamelukes, besieged by the viceroy's troops. After infinite exertions and at no little personal danger, Eaton brought Hamet to Alexandria, where they collected some five hundred men, of whom one hundred were Christians recruited on the spot. Eaton made a convention with Hamet, arranged a plan of joint operations with Barron, and then at about the time when President Jefferson was delivering his second Inaugural Address, the navy agent led his little army into the desert with the courage of Alexander the Great, to conquer an African kingdom.

So motley a horde of Americans, Greeks, Tripolitans, and Arab camel-drivers had never before been seen on the soil of Egypt. Without discipline, cohesion, or sources of supply, even without water for days, their march of five hundred miles was a sort of miracle. Eaton's indomitable obstinacy barely escaped ending in his massacre by the Arabs, or by their desertion in

a mass with Hamet at their head ; yet in about six weeks they succeeded, April 17, 1805, in reaching Bomba, where to Eaton's consternation and despair he found no American ships.<sup>1</sup>

“ Nothing could prevail on our Arabs to believe that any had been there. They abused us as impostors and infidels, and said we had drawn them into that situation with treacherous views. All began now to think of the means of individual safety ; and the Arabs came to a resolution to separate from us the next morning. I recommended an attempt to get into Derne. This was thought impracticable. I went off with my Christians, and kept up fires upon a high mountain in our rear all night. At eight the next morning, at the instant when our camp was about breaking up, the Pacha's casnadar, Zaid, who had ascended the mountain for a last look-out, discovered *a sail* ! It was the ‘ Argus ; ’ Captain Hull had seen our smokes, and stood in. Language is too poor to paint the joy and exultation which this messenger of life excited in every breast.”

Drawing supplies from the brig the little army rested a few days ; and then, April 25, moved against Derne, where they found the town held by a garrison of eight hundred men who had thrown up earthworks and loopholed the terraces and houses for musketry. Eaton sent to the governor a flag of truce, which was sent back with the Eastern message, — “ My head, or yours ! ” Three cruisers, the “ Nautilus,” “ Argus,” and “ Hornet,” acted in concert with Eaton, and a vigorous combined attack, April 27, drove the governor

<sup>1</sup> Life of Eaton, p. 328.

and his garrison from the town. Eaton received a ball through the left wrist, but could not afford to be disabled, for on the news of his arrival a large force was sent from Tripoli to dislodge him; and he was obliged to fight another little battle, May 13, which would have been a massacre had not the ships' guns held the Tripolitans in awe. Skirmishing continued another month without further results. Eaton had not the force to advance upon Tripoli, which was nearly seven hundred miles to the westward, and Hamet found no such popular support at Derne as he had hoped.

What influence Eaton's success at Derne had on the Pacha at Tripoli was never perfectly understood; but the Pacha knew that Rodgers was making ready for an assault, beside which the hottest of Preble's bombardments would seem gentle; Eaton at Derne with Hamet was an incessant and indefinite threat; his own subjects were suffering, and might at any moment break into violence; a change of ruler was so common a matter, as Yusuf had reason to remember, that in the alternative of losing his throne and head in one way or the other, he decided that peace was less hazardous than war. Immediately upon hearing that his troops had failed to retake Derne, he entered into negotiations with Tobias Lear, the American Consul-General at Algiers, who had come to Tripoli for the purpose; and on this occasion the Pacha negotiated with all the rapidity that could be wished. June 3, 1805, he submitted to the

disgrace of making peace without being expressly paid for it, and Lear on his side consented to ransom the crew of the "Philadelphia" for sixty thousand dollars.

When Eaton learned what Lear had done, his anger was great and not unreasonable. That Lear should have made a treaty which sacrificed Eaton's Mahometan allies, and paid sixty thousand dollars for the imprisoned seamen at a moment when Eaton held Derne, and could, as he thought, with two hundred marines on shore and an immense fleet at sea drive the Pacha out of his dominions within six weeks, was astonishing. Lear's only excuse was the fear of causing a massacre of the "Philadelphia's" crew, — a reason which Eaton thought unfounded and insufficient, and which was certainly, from a military point of view, inadmissible. The treaty left the Mahometan allies at Derne to be massacred, and threw Hamet on Eaton's hands. Deposited at Syracuse with a suite of thirty persons without means of support, Caramelli became a suppliant for alms to the United States Congress. Eaton declared the treaty disgraceful, and thenceforth his grievances against the government took an acute form. The settlement of his accounts was slow and difficult. He returned to America and received great attentions, which made him none the less loud in complaint, until at last he died in 1811 a victim to drink and to craving for excitement. Eaton was beyond question a man of extraordinary energies and genius; he had even the rare courage to dis-



please his own Federalist friends in 1807, because of defending Jefferson who had done nothing for him, but who at a critical moment represented in his eyes the Union.

Meanwhile peace with Tripoli was obtained without tribute, but at the cost of sixty thousand dollars, and at the expense of Eaton and his desperate band of followers at Derne. Hamet Caramelli received at last a small sum of money from Congress, and through American influence was some years afterward made governor of Derne. Thus after four years of unceasing effort the episode of the Tripolitan war came to a triumphant end. Its chief result was to improve the navy and give it a firmer hold on popular sympathy. If the once famous battles of Truxton and the older seamen were ignored by the Republicans, Preble and Rodgers, Decatur and Hull, became brilliant names; the midnight death of Somers was told in every farmhouse; the hand-to-hand struggles of Decatur against thrice his numbers inflamed the imagination of school-boys who had never heard that Jefferson and his party once declaimed against a navy. Even the blindest could see that one more step would bring the people to the point so much dreaded by Jefferson, of wishing to match their forty-fours against some enemy better worthy of their powers than the pirates of Tripoli.

There was strong reason to think that this wish might soon be gratified; for on the same day when Lear, in the "Essex," appeared off Tripoli and began

his negotiation for peace, Monroe's travelling-carriage rumbled through the gates of Madrid and began its dusty journey across the plains of Castile, bearing an angry and disappointed diplomatist from one humiliation to another.













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